

Agency Proposed Budget

The following table summarizes the total executive budget proposal for the agency by year, type of expenditure, and source of funding.

Agency Proposed Budget								
Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	362.79	11.00	8.50	382.29	11.00	8.50	382.29	382.29
Personal Services	17,573,187	3,633,000	470,204	21,676,391	3,701,282	470,602	21,745,071	43,421,462
Operating Expenses	21,927,137	11,538,161	782,844	34,248,142	11,387,166	268,536	33,582,839	67,830,981
Equipment	122,112	50,005	250,000	422,117	50,005	0	172,117	594,234
Grants	1,637,948	357,000	0	1,994,948	385,000	0	2,022,948	4,017,896
Benefits & Claims	0	2,050,000	0	2,050,000	2,050,000	0	2,050,000	4,100,000
Debt Service	1,807	0	0	1,807	0	0	1,807	3,614
Total Costs	\$41,262,191	\$17,628,166	\$1,503,048	\$60,393,405	\$17,573,453	\$739,138	\$59,574,782	\$119,968,187
General Fund	3,780,841	3,017,493	1,014,568	7,812,902	2,819,539	269,904	6,870,284	14,683,186
State/Other Special	17,501,602	9,081,551	238,095	26,821,248	9,109,880	231,107	26,842,589	53,663,837
Federal Special	19,979,748	5,529,122	250,385	25,759,255	5,644,034	238,127	25,861,909	51,621,164
Expendable Trust	0	0	0	0	0	0	0	0
Total Funds	\$41,262,191	\$17,628,166	\$1,503,048	\$60,393,405	\$17,573,453	\$739,138	\$59,574,782	\$119,968,187

Agency Description

The Department of Environmental Quality is responsible for air, land, and water quality; hazardous waste facilities; underground storage tanks; solid waste management systems; drinking water systems; and mining operations. The department is also responsible for siting and needs analyses of large-scale energy facilities, and is the lead agency for reclamation and clean-up activities related to the federal and state superfund programs.

Agency Discussion*Goals and Objectives:*

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the legislature may wish to review the following:

- Goals, objectives and year-to-date outcomes from the 2007 biennium
- Goals and objectives and their correlation to the 2009 biennium budget request

Any issues related to goals and objectives raised by LFD staff are located in the program section.

2005 Legislative Initiatives

The legislature approved three major initiatives during the 2005 session. Those initiatives and subsequent outcomes are summarized below:

- Increased funding and FTE for the total maximum daily load (TMDL) program to expedite completion. The department certified to the Environmental Quality Council (EQC) that in using a watershed approach to facilitate development of water quality restoration plans, all TMDL restoration plans will be completed for all areas by May 2007.
- Provided \$1.25 million of orphan share funding for remedial investigation work of the Kalispell Pole & Timber site where the state is a potentially liable party. The funding was to complete the study by completing research to fill the data gaps and establish a remediation plan. The department and the contractor, Tetra Tech are currently in the process of preparing the Remedial Investigation Report, which will evaluate the data collected and help determine where contamination is present. DEQ expects to solicit public comment on the document in January 2007.
- The department was provided authority to complete the EIS for the Gallatin River outstanding resource water petition ordered by the Board of Environmental Review in 1998. The petition is out for public review.

Agency Highlights

Department of Environmental Quality Major Budget Highlights	
<ul style="list-style-type: none"> ◆ The department requests present law adjustments totaling \$35 million over the biennium ◆ 19.5 FTE are being requested to address workload in the enforcement and permitting divisions ◆ Funding for operating expense are requested due to vacancies in the base year ◆ The majority of the state special revenue increase is attributed to proposed enhancements in the air quality program. ◆ The increase in general fund is attributable to information technology requests, enforcement FTE, and restoration of the energy planning unit 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ The department continues to experience problems in recruiting and retention limiting the ability to fulfill statutory requirements ◆ Enhancements in the air quality program would require an increase in air quality permit fees ◆ Resources for coal bed methane may need to be increased in future biennia 	

Funding

The department's largest source of funding at 53 percent is state special revenue. This revenue is derived from permitting fees, fines, and bonds proceeds as is utilized to support specific department functions such as permitting, enforcement and remediation. The federal revenue is provided from the US Environmental Protection Agency (EPA) performance partnership grant, the Superfund Program and other federal grant resources. The partnership grant is a block grant to the state to provide funding the EPA had previously made through individual grants. Federal grants have varying match requirements. Wetland grants require 25 percent match, drinking water capital improvement requires 20 percent match, and non point source funding can require as much as 40 percent match. General fund is utilized for personal services and related operating expenses such as travel, communications, and equipment.

The following table summarizes funding for the agency, by program and source, as recommended by the executive. Funding for each program is discussed in detail in the individual program narratives that follow.

Total Agency Funding 2009 Biennium Executive Budget					
Agency Program	General Fund	State Spec.	Fed Spec.	Grand Total	Total %
10 Central Management Program	\$ 2,551,051	\$ 2,650,856	\$ 1,116,141	\$ 6,318,048	5%
20 Plan.Prevent. & Assist.Div.	6,416,446	2,340,701	18,135,898	26,893,045	22%
30 Enforcement Division	1,019,028	700,105	628,756	2,347,889	2%
40 Remediation Division	2,000,000	14,541,231	17,873,971	34,415,202	29%
50 Permitting & Compliance Div.	2,696,661	32,085,484	13,866,398	48,648,543	41%
90 Petro Tank Release Comp. Board	-	1,345,460	-	1,345,460	1%
Grand Total	<u>\$ 14,683,186</u>	<u>\$ 53,663,837</u>	<u>\$ 51,621,164</u>	<u>\$ 119,968,187</u>	<u>100%</u>

Biennium Budget Comparison

The following table compares the executive budget request in the 2009 biennium with the 2007 biennium by type of expenditure and source of funding. The 2007 biennium consists of actual FY 2006 expenditures and FY 2007 appropriations.

DEPT. OF ENVIRONMENTAL QUALITY

SUMMARY

Biennium Budget Comparison								
Budget Item	Present Law Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	Present Law Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Biennium Fiscal 06-07	Total Exec. Budget Fiscal 08-09
FTE	373.79	8.50	382.29	373.79	8.50	382.29	362.79	382.29
Personal Services	21,206,187	470,204	21,676,391	21,274,469	470,602	21,745,071	36,884,246	43,421,462
Operating Expenses	33,465,298	782,844	34,248,142	33,314,303	268,536	33,582,839	62,761,655	67,830,981
Equipment	172,117	250,000	422,117	172,117	0	172,117	226,787	594,234
Grants	1,994,948	0	1,994,948	2,022,948	0	2,022,948	3,527,527	4,017,896
Benefits & Claims	2,050,000	0	2,050,000	2,050,000	0	2,050,000	0	4,100,000
Debt Service	1,807	0	1,807	1,807	0	1,807	1,807	3,614
Total Costs	\$58,890,357	\$1,503,048	\$60,393,405	\$58,835,644	\$739,138	\$59,574,782	\$103,402,022	\$119,968,187
General Fund	6,798,334	1,014,568	7,812,902	6,600,380	269,904	6,870,284	7,785,101	14,683,186
State/Other Special	26,583,153	238,095	26,821,248	26,611,482	231,107	26,842,589	43,862,922	53,663,837
Federal Special	25,508,870	250,385	25,759,255	25,623,782	238,127	25,861,909	51,753,999	51,621,164
Expendable Trust	0	0	0	0	0	0	0	0
Total Funds	\$58,890,357	\$1,503,048	\$60,393,405	\$58,835,644	\$739,138	\$59,574,782	\$103,402,022	\$119,968,187

New Proposals

The "New Proposals" table summarizes all new proposals requested by the executive. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals										
Program	-----Fiscal 2008-----					-----Fiscal 2009-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 2001 - Annual Maint for Relational Database Mgt System IT										
20	0.00	30,000	0	0	30,000	0.00	30,000	0	0	30,000
DP 2006 - Restore Energy Planning Functions										
20	2.00	160,641	0	0	160,641	2.00	165,922	0	0	165,922
DP 2007 - Biofuels Testing - OTO										
20	0.00	250,000	0	0	250,000	0.00	0	0	0	0
DP 5013 - MFSA/MEPA FTE										
50	1.00	0	75,679	0	75,679	1.00	0	71,865	0	71,865
DP 5014 - Subdivision Review FTE										
50	2.00	0	162,416	0	162,416	2.00	0	159,242	0	159,242
DP 5020 - Coal Bed Methane Compliance Monitoring FTE										
50	2.00	0	0	250,385	250,385	2.00	0	0	238,127	238,127
DP 5021 - METH Staff - Re-Instate FTE										
50	1.50	73,927	0	0	73,927	1.50	73,982	0	0	73,982
DP 5029 - Swift Gulch Drainage System OTO/BIE										
50	0.00	500,000	0	0	500,000	0.00	0	0	0	0
Total	8.50	\$1,014,568	\$238,095	\$250,385	\$1,503,048	8.50	\$269,904	\$231,107	\$238,127	\$739,138

Agency Issues*Personal Services*

The present law personal services adjustment provides for full funding of all permanent positions less vacancy savings requirements. The adjustment is made to account for vacancies in the base year, non-legislative pay adjustments and to annualize the pay plan from the 2005 legislative session. The total adjustment for the department is \$7.2 million over the biennium.

The department had a biennial cost of vacancies of \$3.2 million, provided \$2.8 million in market based adjustments and had 9.25 FTE that were not filled at anytime during the base year. The data indicates that the department has pay issues in recruitment and retention and undertook an internal pay initiative to attempt to provide incentives to employees to remain with the department.

The data does not provide an indication of the amount of operating costs not expended due to the vacant positions. However, an estimate of this cost can be extrapolated from the executive's budget request.

Additional information regarding, vacancies, forgone operations costs, non-legislative pay adjustments, and recruitment issues is provided to allow the legislature to consider budgetary options that could possibly address the situation.

Vacancies

The department had 85 positions that were vacant at some point in the base year and 9.5 FTE that were not filled at all. The vacancy rate among the divisions was not consistent. Figure 1 provides vacancy rates for each division based upon the number of hours budgeted but not used (positions not filled in the base year are not included). If an agency was operating fully staffed, the vacancy savings would be close to the four percent applied by the 2005 legislature.

Of the 9.5 FTE not filled at any time during the base year, 6.25 remained vacant in November of 2006. Figure 2 provides data

Figure 1 Department of Environmental Quality Value of Base Year Vacancies		
	Percent	Dollar Value
Central Management Division	18.3	\$108,924
Planning, Prevention & Assist. Division	12.9	<u>449,971</u>
Enforcement Division	9.6	<u>61,655</u>
Remediation Division	12.9	<u>292,291</u>
Permitting and Compliance Division	10.3	<u>749,225</u>
Petroleum Tank Commoensation Board	0.9	<u>2,509</u>
Annual Value of Vacancies		<u>\$1,664,575</u>

regarding the open positions. The unfilled positions were mainly environmental scientists from the three major divisions: planning, prevention and assistance; remediation; and permitting and compliance.

The cost of operations adjustments for the vacancies is not included in the statewide present law adjustment that fully funds these positions. These adjustments are contained within individual decision packages in the Governor's budget. Figure 3 provides an estimate of the adjustments to restore base authority to operating costs due to vacancies.

Figure 2 Department of Environmental Quality Distribution of non-filled FTE		
	July 1, 2006	November 1, 2006
Planning, Prevention & Assitance	2	1
Remediation	3	2
Permitting & Complaince	4.25	3.25
Empty FTE	9.25	6.25

Figure 3 Department of Environmental Quality Base Adjustments due to Vacancies			
DP #	Description	FY 08	FY 09
PL 1002	Central Management Operating Adjustment	\$1,928	\$1,928
PI 2010	PPA Operating Adjustment	1,274,126	1,292,718
PL 3001	Enforcement Operating Adjustments	21,619	16,645
PL 5026	Permitting Operating Adjustments	<u>208,000</u>	<u>208,000</u>
	Total	<u>\$1,505,673</u>	<u>\$1,517,363</u>
	Biennium Total		\$3,023,036

The costs include items such as travel, training, lab fees, and contracted services due to contracts not being released. Adding the impact of operations to the personal services adjustment for vacancies, the estimated biennial cost to restore base authority is \$3.0 million.

Non-legislative pay adjustments

In order to address the issue the department developed an internal pay initiative utilizing FY 2006 budget authority provided for other purposes.

The adjustments associated with the internal pay initiative are considered non-legislative pay adjustments, as the legislature did not specifically provide for such adjustments, although they are allowed under statute. The department provided this adjustment within FY 2006 budget authority. These higher salaries are included in the statewide present law adjustment and therefore are funded in the next biennium.

In funding this plan, the department had to address:

1. How much in vacancy savings could be utilized;
2. Where reductions in the operating budget could be made; and
3. How much of an increase could be sustained based upon limited funding sources

Since the department is funded primarily with state special revenue derived from fees and federal grants, the stability of the funding needed to be considered.

The initiative was two-fold. First, employees that were paid at less than 80 percent of market were brought up to that level. Second, in areas where retention issues were identified an additional adjustment was provided. A total of 278 adjustments were then made.

Pay raises for the initiative are assumed to be those classified as “market adjustments” on the state human services system. Using the criteria, the cost of the pay initiative is calculated at \$736,500 per year or \$1.4 million over the biennium. This is an estimate, as the department provided other types of adjustments. For example, the department provided an additional \$407,000 per year in adjustments classified as position upgrades and competitive adjustments, some of which may have also been related to recruitment and retention issues.

The outcome of the pay initiative was mixed. The department reports stabilization in areas such as accounting, budget, and legal. But reports are of continued difficulties in recruiting and retaining qualified environmental scientists or engineers.

Recruitment and Retention

The department provided numerous examples of recruitment difficulties. One such example is for federally funded air quality specialist to work in conjunction with the Bureau of Land Management (BLM) on air permitting issues associated with the increased development of coal bed methane. This position has been unsuccessfully recruited for twice. At the time of this writing the department and the BLM are re-evaluating the requirements for this position.

The identified issues surrounding recruitment of qualified environmental scientists include:

- Pay - According to national occupational employment statistics the federal government and private industry pay higher
- Qualifications – The department reports air quality experience is not common
- Type of work – Personal service statistics demonstrate that regulatory positions are more difficult to fill than non-regulatory positions
- Economy - the robust economy has increased competition for employees in many areas

In addition, there are other competition and pay issues. The department is not the only agency of state government employing environmental scientists and engineers. The Departments of Transportation and Fish, Wildlife and Parks employ individuals with the same professional requirements, which are similarly classified. An attempt was made to determine the consistency in base pay across the three agencies, but the inconsistent use of job codes by the agencies prohibited a timely analysis. In order to determine if the issue exists across all departments a longer term study would be required. This information could potentially provide information that illustrates the internal competition for scientists within state government as a whole.

Potential Risks

Vacancies are also costly in terms of completing statutorily required duties within time limitations. The department is dependent upon qualified individuals to meet statutory guidelines for the regulated environment. The vacancy issue has contributed to the department’s inability to meet such guidelines in some areas. For example:

- One of three air permits is released within statutory timelines
- One half of all subdivision plat reviews are returned after the first review at or after the statutory deadline.

Delays in permitting can also affect development, such as of alternative energy sources, and delays in enforcement can put the quality of Montana land, air, and water at risk.

Legislative Assistance

The issue for the legislature is whether tools should be provided to the department to stabilize the workforce to allow the department to meet state and federal law.

Caveats and options

Prior to discussing options, there are overall considerations that should be applied when determining the value of each

option. These include:

- Union representation – any change to the status quo may need to be negotiated with the union prior to implementation
- Internal equity – the department will need to be able to defend any adjustment to the employees
- Progress – how progress towards a stable workforce should be measured and reported
- Non-pay related changes – how changes in environmental factors would improve the situation
- Funding – where the funding would come from to implement the change (i.e. increased fees or increased general fund)

The following options are provided as starting points.

The department enacted a pay initiative to adequately compensate individuals based on current market conditions. The pay market changes regularly and the adjustment included in the pay plan does not move individuals closer to market.

To keep pace with the changing market, the options include:

- Provide funding to increase salaries by 5 percent to at least 85 percent of market and not to exceed 100 percent of market. Preliminary calculations indicate this would cost approximately \$0.8 million per year.
- Allow the department to create another pay initiative within the approved budget, knowing that operation costs will be reduced and the annualization of the adjustments will be included in the 2011 biennium personal services adjustment. Based on experience from the FY 2006 pay initiative, this would cost at least \$1.4 million per year.
- Provide funding for the department to develop a competitive pay scale for environmental engineers

Work environment is another important factor in recruiting and retaining employees. Addressing work environment may not be as simple as addressing pay issues. Some options include

- Provide funding and authority for contracted services to determine what characteristic department employees want in their work environment
- Evaluate the use and availability of part-time and flex-time, as well as educational and professional benefits

The type of work has been included in the reasoning behind why the recruitment and retention problem exists. Working in a regulatory environment has its challenges. The options to make this type of work more attractive can include:

- Establish in statute and fund a bonus system for teams that significantly increase the number of permits, plat, total maximum daily load (TMDL) plans, or enforcement actions that meet statutory guidelines. The amount required to implement could be established by the legislature providing a lump sum and letting the department implement a bonus plan or providing guidelines for implementation and establish a corresponding appropriation.
- Fund the development of a new college graduate program designed to provide the experience necessary to meet professional certification or licensing, with the ability to adjust pay as progress is made toward that certification. A “repayment” period after certification would need to be included.
- Increase funding to provide federal level wages to those individuals who work directly to insure federal regulations are met or exceeded
- Provide contracted services in lieu of personal services.

To implement or not

If the legislature is interested in providing funding for any of the options, they can be funded three different ways:

- Appropriate authority in HB 2 and condition it to assure progress is being made toward stabilizing the workforce
- Appropriate authority in HB 2 and request a companion bill to clearly delineate the type of activity the legislature wishes for the department to undertake, and outline performance criteria to measure progress towards stabilizing the workforce
- Request legislation to appropriate funding and provide for legislative intent and performance management criteria.

Requests for new FTE

The executive budget request includes 19.5 FTE for an additional \$2.0 million in personal services costs. The specific decision packages with FTE requests are described in Figure 4. Of this 19.5 FTE, 7.5 are requested in order to convert modified FTE approved via the budget amendment process to permanent FTE. Those FTE are italicized in Figure 4.

Figure 4 Department of Environmental Quality Requested FTE				
DP #	Description	FTE	FY 08	FY 09
PL 1001	Business Process Improvement	2	\$132,564	\$132,678
PL 2009	<i>Wetlands Pilot</i>	1	51,769	51,810
NP 2006	Restore Energy Planning Functions	2	105,248	105,334
PL 3002	Enforcement FTE	1	49,539	49,577
PL 5001	Oil & Gas Registration FTE	3	183,843	184,026
PL 5002	Major Source FTE	1	47,402	47,447
PL 5005	Air Pollutant Tracking	1	47,402	47,447
PL 5018	Public Water Supply FTE	1	49,539	49,577
NP 5013	MFS/MEPA	1	49,539	49,577
NP 5014	<i>Subdivision Review FTE</i>	2	107,958	108,043
NP 5020	<i>Coal Bed Methane Monitoring</i>	3	133,532	133,666
NP 5021	<i>Meth Staff</i>	<u>1.5</u>	<u>73,927</u>	<u>73,982</u>
	Total	<u>19.5</u>	<u>\$1,032,262</u>	<u>\$1,033,164</u>
	Biennium Total			\$2,065,426

Given the multitude of personal services issues faced by the department, the legislature may wish to ask the following questions during deliberations about decision packages that are requesting FTE:

- Is there a recruitment plan in place for the position?
- What is the realistic time period required to fill this position?
- Can contracted services replace the FTE?
- What are the contingency plans if hiring is unsuccessful?

The Clean Air Act

The federal Clean Air Act provides for the amount of pollutants that can be emitted from various sources and the consequences for entities that are unable to meet the emission requirements. To manage the amount of pollution emissions the act provides that a permitting program be controlled by the states, because at the time of the passage of the act in 1990, thirty five states already had permitting programs. The act also directs the state to utilize fees from permits to fund the program. If a state is unable to meet the requirements of the act, the Environmental Protection Agency (EPA) can take over the management of the program. Currently the department does not consistently meet statutorily defined time limitations in releasing air permits. A number of adjustments are being requested to potentially remedy this situation. These adjustments have a significant cost.

During FY 2006, the department expended \$2.5 million in air quality permit fees; the Governor proposes spending \$3.9 million in FY 2008. This represents an increase in expenditures of 56 percent. The adjustments are summarized in Figure 5.

The legislature does not directly establish fees for the program but the level of appropriation is the driving force in setting the fees. Department staff calculates the air quality permit fees based on anticipated workload and the amount of fee revenue appropriated by the legislature. Those fees are adopted through the rule making process and require final approval by the Board of Environmental Review (BER) prior to implementation.

Figure 5 Department of Environmental Quality Air Program Proposed Adjustments			
DP #	Description	FY 08	FY 09
DP 5001	Oil and Gas Well Registration - 3.00 FTE	\$183,451	\$176,569
DP 5002	Permitting major sources - 1.00 FTE	75,076	71,922
DP 5003	Air online compliance	77,250	78,000
DP 5005	Air emissions tracking	75,076	71,922
DP 5006	Air Resources Bureau Relocation	53,560	54,080
DP 5028	Air Regulatory Assistance	<u>257,000</u>	<u>260,000</u>
	Total	<u>\$721,413</u>	<u>\$712,493</u>
	Biennium Total		\$1,433,906

The issue for the legislature is to determine what adjustments are necessary to encourage the program to operate within state and federal guidelines. Each decision package is discussed in the Permitting and Compliance section and provides options for legislative consideration. The common element in those discussions is the need for clear performance measures and the potential use of a reporting requirement to assure progress is being made towards meeting statutory and federal requirements.

Coal Bed Methane

The department is charged with air and water quality control and enforcement. This extends to the development of coal bed methane (CBM) resources in Montana. The Governor's budget includes appropriation authority for FTE to manage air and water quality issues associated with future CBM development. The major source of funding is from the Bureau of Land Management (BLM) to establish cooperative management in this area. The BLM agreed to provide resources from FY 2007 to FY 2012 for this purpose. The department obtained authority and modified FTE for FY 2007 through a budget amendment. The type of work provided by this contract would most likely not end in FY 2012. However, the federal government has not committed resources past this date.

These packages provide for converting modified FTE to permanent FTE. The dedicated FTE represents increased attention to the permitting issues related to the CBM industry. Should the industry begin to develop, such as it has in Wyoming, the legislature may need to provide additional resources in the future for ongoing permitting and enforcement activities.

Indirect Rate Changes

The department is requesting a methodology change in the calculation of the indirect cost allocation plan. In the past, a fixed rate has been applied against personal services, temporary services, and work-study contracts charged within each division of the department. The department's review of the proprietary fund calculation disclosed that programs supporting more personnel and less contract/operating services were bearing a disproportionate share of indirect costs compared with programs with high operating and contract service costs.

To remedy this situation the department is requesting the methodology be changed from 24 percent against personal services, temporary services, and work-study contracts to 22.5 percent and an additional 3 percent on operating costs for FY 2008. The proposed rates for FY 2009 would be 21 percent for personal services and 4 percent for operating costs. These rates would be the legislative cap for the department to negotiate with federal contractors. The actual rate may be lower but not any higher.

This change in methodology would raise an additional \$1.1 million in revenues, a portion of which would cover the cost of including department rent and copier services in the funds expenses. This would be approximately \$624,000 per year for rent and copy charges and increased personal service costs of \$475,000. These costs are attributed to vacancies in the base year and the department wide pay initiative.

The Central Management program contains a further discussion of the impact on that program budget. The legislature needs to be aware that the executive's budget was established utilizing the proposed rates and the inclusion of rent and copier services as expenses to the fund. If the legislature disapproves the change in methodology or imposes a different rate, the executive's budget will need to be adjusted.

Program Proposed Budget

The following table summarizes the total executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	10.00	2.00	0.00	12.00	2.00	0.00	12.00	12.00
Personal Services	541,448	319,809	0	861,257	323,646	0	865,094	1,726,351
Operating Expenses	1,133,321	1,239,168	0	2,372,489	1,045,887	0	2,179,208	4,551,697
Equipment	0	20,000	0	20,000	20,000	0	20,000	40,000
Total Costs	\$1,674,769	\$1,578,977	\$0	\$3,253,746	\$1,389,533	\$0	\$3,064,302	\$6,318,048
General Fund	316,482	1,058,320	0	1,374,802	859,767	0	1,176,249	2,551,051
State/Other Special	1,125,281	195,424	0	1,320,705	204,870	0	1,330,151	2,650,856
Federal Special	233,006	325,233	0	558,239	324,896	0	557,902	1,116,141
Total Funds	\$1,674,769	\$1,578,977	\$0	\$3,253,746	\$1,389,533	\$0	\$3,064,302	\$6,318,048

Program Description

The Central Management Program consists of the director's office, a financial services office, and an information technology office. It is the organizational component of the DEQ responsible and accountable for the administration, management, planning, and evaluation of agency performance in carrying out department mission and statutory responsibilities. The director's office includes the director's staff, the deputy director, an administrative officer, public information officer, a centralized legal services unit, and a centralized personnel office. The financial services office provides budgeting, accounting, payroll, procurement, and contract management support to other divisions. The information technology office provides information technology services support to other divisions.

Program Highlights

Central Management Division Major Program Highlights	
♦	The executive is requesting \$1.8 million for a business process improvement initiative
♦	A change in the indirect calculation rate is proposed
Major LFD Issues	
♦	Performance reporting for the business process improvement initiative could be beneficial to the legislature
♦	The proposed indirect rate is included in the budget request and so, if not adopted the budget will need to be adjusted

Funding

The majority of the functions in the division is funded with non-budgeted proprietary funds, and is not appropriated through HB 2. The proprietary funding is based upon a negotiated indirect rate with the federal Environmental Protection Agency (EPA). The indirect rate is assessed against funding all personal services, temporary services, and work-study projects within each division, and transferred to the Central Management Program to fund operating costs. A further discussion is included in the proprietary rate section.

Appropriated funds consist of general fund for support of the Board of Environmental Review, a business process improvement initiative, and general operating costs, state special revenue, predominantly Montana Environmental Protection Act fees and numerous small federal grants.

The following table shows program funding, by source, for the base year and for the 2009 biennium as recommended by the executive.

Program Funding Table						
Central Management Progr						
Program Funding	Base FY 2006	% of Base FY 2006	Budget FY 2008	% of Budget FY 2008	Budget FY 2009	% of Budget FY 2009
01000 Total General Fund	\$ 316,482	18.9%	\$ 1,374,802	42.3%	\$ 1,176,249	38.4%
01100 General Fund	316,482	18.9%	1,374,802	42.3%	1,176,249	38.4%
02000 Total State Special Funds	1,125,281	67.2%	1,320,705	40.6%	1,330,151	43.4%
02058 Petroleum Storage Tank Cleanup	7,032	0.4%	-	-	-	-
02070 Hazardous Waste-Cercla	9,865	0.6%	-	-	-	-
02075 Ust Leak Prevention Program	44,214	2.6%	68,252	2.1%	68,162	2.2%
02097 Environmental Rehab & Response	55,123	3.3%	100,000	3.1%	100,000	3.3%
02157 Solid Waste Management Fee	24,982	1.5%	36,734	1.1%	36,686	1.2%
02201 Air Quality-Operating Fees	45,282	2.7%	52,456	1.6%	52,387	1.7%
02202 Asbestos Control	15,166	0.9%	9,477	0.3%	9,465	0.3%
02204 Public Drinking Water	5,118	0.3%	7,347	0.2%	7,337	0.2%
02278 Mpdcs Permit Program	30,516	1.8%	37,763	1.2%	37,713	1.2%
02418 Subdivision Plat Review	23,439	1.4%	26,228	0.8%	26,193	0.9%
02458 Reclamation & Development	36,822	2.2%	47,240	1.5%	47,178	1.5%
02542 Mt Environ Policy Act Fee	820,158	49.0%	902,661	27.7%	912,526	29.8%
02845 Junk Vehicle Disposal	5,732	0.3%	30,416	0.9%	30,376	1.0%
02954 Septage Fees	1,832	0.1%	2,131	0.1%	2,128	0.1%
03000 Total Federal Special Funds	233,006	13.9%	558,239	17.2%	557,902	18.2%
03014 Dw Srf Ffy05 Grant	-	-	15,722	0.5%	15,701	0.5%
03046 05 Exchange Network Grant	-	-	130,000	4.0%	-	-
03067 Dsl Federal Reclamation Grant	10,442	0.6%	14,693	0.5%	14,675	0.5%
03155 2004 Network Exchange Grant	-	-	120,000	3.7%	-	-
03228 L.U.S.T./Trust	15,964	1.0%	59,803	1.8%	59,725	1.9%
03262 Epa Ppg	-	-	144,879	4.5%	144,689	4.7%
03385 Epa/One-Stop Grant	92,368	5.5%	50,000	1.5%	-	-
03433 Epa Perf Partnership Fy04-05	97,808	5.8%	-	-	-	-
03436 Nps 04 Staffing & Support	-	-	-	-	13,647	0.4%
03437 Sep Base 2004	1,543	0.1%	9,477	0.3%	9,465	0.3%
03440 Dw Srf 03	2,475	0.1%	-	-	-	-
03452 Epa Readiness Grant	-	-	-	-	300,000	9.8%
03691 Nps Staffing/Support	12,406	0.7%	13,665	0.4%	-	-
Grand Total	<u>\$ 1,674,769</u>	<u>100.0%</u>	<u>\$ 3,253,746</u>	<u>100.0%</u>	<u>\$ 3,064,302</u>	<u>100.0%</u>

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
-----Fiscal 2008-----					-----Fiscal 2009-----					
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				217,607					221,486	
Vacancy Savings				(30,362)					(30,518)	
Inflation/Deflation				915					1,134	
Fixed Costs				(30,341)					(29,771)	
Total Statewide Present Law Adjustments				\$157,819					\$162,331	
DP 1001 - Business Process Improvement OTO										
2.00	1,000,000	0	0	1,000,000	2.00	800,000	0	0	800,000	
DP 1002 - Central Management Operating Adjust										
0.00	38,664	90,439	20,692	149,795	0.00	39,583	96,899	19,501	155,983	
DP 1003 - Central Management Information Technology Grants										
0.00	0	0	271,363	271,363	0.00	0	0	271,219	271,219	
Total Other Present Law Adjustments										
2.00	\$1,038,664	\$90,439	\$292,055	\$1,421,158	2.00	\$839,583	\$96,899	\$290,720	\$1,227,202	
Grand Total All Present Law Adjustments				\$1,578,977					\$1,389,533	

**LFD
COMMENT**
Personal Services Adjustment

The components driving the biennial personal services adjustment are about \$200,000 for vacant positions and \$200,000 for non-legislative pay adjustments. The remainder is attributed to annualization of HB 447 from the 2005 session, longevity adjustments, and an employer paid increase in health insurance premiums. The non-legislative pay increases are attributable to market adjustments provided to the attorneys as part of the department-wide pay initiative. Please see agency issues for a full description of the issue.

DP 1001 - Business Process Improvement OTO The executive is requesting \$1.8 million of general fund for the department to analyze its existing business processes to identify and implement improvements in quality of service, efficiency, timeliness, consistency and cost-effectiveness. This proposal would support this effort in two major areas – accounts receivable, and subdivision permit application and review.

The following information is provided so that the legislature can consider various performance management principles when examining this proposal. It is as submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: The DEQ was formed from parts of three former departments, each with multiple systems and processes that created an environment of inefficient operations, complicated accounting, reduced internal controls, impaired effective communication between the DEQ enterprise database (CEDARS) and various federally mandated databases, and limited ability to report and compare activity across the agency for the purposes of measuring productivity, efficiency, and results. This infrastructure leads to costly inefficiencies and delayed revenue collections.

Goals:

1. To consolidate multiple accounts receivable processes into one uniform system using standardized processes administered by the DEQ Office of Financial Services;
2. To develop an online web-based subdivision permit application and fee collection, which will expedite permitting, reduce errors and re-submittals, and accelerate cash collection;
3. To optimize the subdivision review process for efficiency, quality of service, and timeliness while maintaining environmental protection standards; and
4. To apply cost effective improvements identified in the subdivision permitting process to other department permit functions, where appropriate.

Performance Criteria: Work progress and implementation will be the responsibility of the project team(s), composed of the business process management (BPM) lead, contract employees, and DEQ Financial Services, Information Technology, and Program representatives. The chief financial officer (CFO) would be the process owner and responsible for oversight to insure AR (accounts receivable) goals and milestones are met. The Permitting and Compliance Division Administrator would be the process owner and responsible for oversight to ensure subdivision permitting goals and milestones are met.

Accounts Receivable System

Work/performance measurement and monthly reporting to project owner:

1. Identify “as is” processes and establish a timeline for completion of work flow documentation for each process within project scope. Provide project owner with monthly reports comparing work progress to scheduled time line;
2. Schedule conversion, testing and implementation of standard processes for identified systems;
3. Compare average processing time for billing, fee collection, cost recovery, and revenue recognition before and after new system implementation;
4. Evaluate and report effectiveness of online fee collection and cost recovery process; and
5. Assess project cost-effectiveness by documenting achieved benefits and improvements compared to development costs.

Subdivision Permitting Application and Review

1. Identify “as is” processes and establish a timeline for completion of work flow documentation for each process within project scope. Provide project owner with monthly reports comparing work progress to scheduled time line;
2. Schedule conversion and implementation of standard processes for identified systems;
3. Compare incidence of incomplete and deficient applications requiring multiple reviews and repeat correspondence before and after new system implementation;
4. Compare number and types of complaints before and after new system implementation;
5. Compare average permit handling time before and after implementation of improvements;
6. Assess project cost-effectiveness by documenting achieved benefits and improvements compared to development costs; and
7. Determine whether subdivision changes could be cost effectively applied in whole or in part to other permit functions.

Milestones:

Accounts Receivable System

1. Inventory existing systems and document high level “as is” processes for all department programs by June 2008.
2. Identify common elements, process improvements and standard practices by September 2008.
3. Complete design of uniform system and create online web-based payment processing and convert at least one work unit by January 2009.
4. Convert and implement uniform system, including online web-based payment processing for at least two more work units by June 2009.

Subdivision Permitting Application and Review

1. Document existing subdivision permit processes by January 2008.
2. Identify improvements and determine the types of subdivisions that fit online application process by June 2008.
3. Implement manual improvements by January 2009.
4. Create and implement online application for selected types of subdivisions by June 2009

FTE: The department anticipates hiring 2.00 modified FTEs to provide overall project management and coordination activities, as well as several contractors. The project will also require time from department financial, IT, and program staff, the Department of Administration, and outside stakeholders from the public and the regulated community.

Funding: Goals (#1 and #4) of centralizing accounts receivable and applying the subdivision permit process to other areas will ultimately affect all programs. General fund is being requested because of the department-wide nature of the project.

Obstacles:

1. The current workload of both accounts receivable and subdivision review staff limits the ability for front-line employees to share their knowledge of these systems and processes and to offer improvements;
2. Meeting greater institutional resistance than anticipated. Initial indications from select customers are positive; however, if resistance develops we will organize an education effort to explain consumer benefits;
3. Meeting greater resistance to change than anticipated from front-line staff. Hopefully, the merits of the AR and subdivision permit application will sell themselves; however, if necessary we will institute an education effort to convey overall department benefits;
4. Until these new systems are developed, debugged, and fully operational, existing systems must remain in place, which creates potential for duplication;
5. Uncovering bigger problems than anticipated, requiring more time and money to fix; and
6. Creating unanticipated derivative problems when making system changes.

Risks:

1. Delayed revenue due to poor cash management, billing, and collection processes;
2. Decreased productivity due to inefficient and labor intensive processing of accounts receivable/billing activities;
3. Increased public frustration, criticism and complaints due to inconsistent and cumbersome accounts receivable and subdivision permit processing; and
4. Increased potential for misstatement of financials due to inadequate and inconsistent accounting of A/R transaction.

**LFD
ISSUE**

Appropriate Funding

The department provides a clear description of the intentions of this decision package. There are two issues to address: 1) subdivision review activities; and 2) the use of general fund.

Subdivision review activities

The department was provided a \$200,000 biennial appropriation to address workload issues in the subdivision review program through contracted services and training of potential applicants. Minimal dollars were spent in FY 2006 for contracted services and the training program did not get off the ground due to staff vacancies and lack of an overall coordinated plan. The proposal above could provide information necessary to plan accordingly to make an impact on the ever present backlog in the subdivision review program.

The use of general fund

The request of general fund should be reviewed in the context of what the benefit is to the state as a whole to achieve streamlined business processes within the department. Two points to consider would be: 1) the department receives general fund support to achieve overall department goals, and this request should improve their ability to meet their goals; or 2) the department contends that an improved process will improve cash flow; this request, if implemented as written, may result in reduced general fund requirements in the future.

**LFD
ISSUE
CONT.**

However, alternative funding may be available from utilizing subdivision review fees for the portion of the project associated with the subdivision review process. The subdivision plat review fund had a fund balance of \$1.2 million at the end of FY 2006. Figure 1 describes the relationship between revenues and expenses for the last four completed years. During this time the fund balance has been increasing. The legislature could opt to fund the portion of the proposal for subdivisions with subdivision review fees.

Given these issues the legislature may wish to track progress as it occurs. To do this the legislature could request performance management reporting after critical milestones as language in HB 2 or in a companion bill.

Figure 1
Subdivision Plat Review Fees

	FY 2003	FY 2004	FY 2005	FY 2006
Revenue	\$1,054,524	\$1,236,587	\$1,489,634	\$1,756,435
Expenditures	(911,364)	(978,574)	(1,157,488)	(1,209,963)
Non-expended Revenues	\$143,159	\$258,014	\$332,147	\$546,471

DP 1002 - Central Management Operating Adjust - The executive is requesting a base adjustment for the Central Management Division consisting of adjustments totaling \$305,778 over the biennium to contracted services, office supplies, and travel. The remaining is attributable to indirect costs. The package also reduces the base expenses in office rent, copy costs, and web services and increases indirect costs in order for the department to implement a change in the manner indirect costs are calculated.

**LFD
COMMENT**

If the legislature does not approve the department's proposed change to the indirect formula, this decision package will need to be adjusted.

DP 1003 - Central Management Information Technology Grants - The executive is requesting the addition of approximately \$540,000 to upgrade databases and hardware to achieve the long-term goal of participating in the environmental information network to provide access to information to assist in decision making in the event of national disasters and/or terrorist activities funded by the Environmental Protection Agency (EPA).

Proprietary Rates**Proprietary Program Description**

The Central Management Program provides management services, public information, legal services, and human resources, as well as fiscal services such as budgeting, accounting, payroll, procurement and contract management support to the programs within the department. The information technology office provides information technology services support to the same customers.

Proprietary Revenues and Expenses

The department has one proprietary fund, an internal service fund used to account for the department's indirect cost activity. The department negotiates an indirect rate with EPA based on services mutually agreed upon. The department is proposing to add some operating expenses previously directly charged to programs to be covered by proprietary funding. This includes office rent, copier costs and web services.

The department anticipates negotiating the indirect cost rates with the U.S. Environmental Protection Agency (EPA) of approximately 22.5 percent applied against personal services and 3 percent applied against operating costs for FY 2008, and 21 percent and 4 percent respectively for FY 2009. The anticipated revenues for FY 2008 and FY 2009 are \$5.5 million per year in comparison to FY 2006 collections of \$4.2. The indirect rate proposed to the legislature will fund 55.50 FTE, the same number funded by the rate in FY 2006.

Expense Description: The major cost drivers within this program are personal services costs, contracts and fixed operating expenses. Expenses are determined by projecting increases or decreases in program staff, contracted activities and fixed operating expenses. For FY 2006 the proprietary fund expended \$4.4 million, while the estimated expenditures for both FY 2008 and FY 2009 is \$5.5 million. An increase in \$1.1 million that is attributable to the inclusion of rent and copier services for the entire department and non-legislative pay increases for FTE funded with proprietary dollars.

Working Capital: The objective of program management is to recover costs to fund necessary, ongoing operation of the Central Management Program. The fund normally carries a 60-day working capital balance to meet immediate cash needs for covering payroll and various operating costs that are not charged equally throughout the year.

Fund Equity: The department does not reserve a fund balance on the accounting records nor does it try to maintain a fund balance. The revenues generated should be enough to cover the current year's operations. However, due to timing factors, the fund balance does not always equal zero.

Proprietary Rate Explanation

The Department is requesting a methodology change in the calculation of the indirect cost allocation plan. In the past, a fixed rate has been applied against personal services, temporary services, and work-study contracts charged within each division of the department. Review of the proprietary fund calculation disclosed that programs supporting more personnel and less contract/operating services were bearing a disproportionate share of indirect costs compared with programs with high operating and contract service costs.

The legislature approves a cap for the indirect rate. In the previous legislative session, this cap was set at 24% on the personal services basis. For the 2008/2009 biennium, the Department requests approval of a 22.5% cap on the personal services rate and 4% cap on the operating rate. The department negotiates the annual indirect rate the EPA. The approved rate is a fixed rate which may be slightly lower than the cap set by legislature, but never higher than the legislative cap.

LFD COMMENT

The proposed rate change would support 55.50 FTE, and cover the rent and copier services expenses for the department. A majority of the increases are attributed to personal services costs. This includes approximately \$372,500 per year for non legislative pay adjustments provided as part of the agency wide pay initiative, and an additional \$103,000 for positions that were vacant all or part of FY 2006.

The addition of department rent and photo copier services as an expense to the proprietary fund contributes \$624,000 to the projected increase in expenditures from the fund. The decrease in program budgets for these charges were handled in an adjustment to fixed costs for rent and an adjustment to base costs for copier services.

LFD ISSUE

Requested Rate Utilized

The requested change in the indirect calculation is already integrated into the department's budget. If the legislature disapproves the change in methodology or imposes a different rate, the executive's budget will need to be adjusted.

2009 Biennium Report on Internal Service and Enterprise Funds

Fund	Fund Name	Agency #	Agency Name	Program Name
06509	DEQ Indirects	5301	DEQ	Central Management Division

	Actual FY04	Actual FY05	Actual FY06	Budgeted FY07	Budgeted FY08	Budgeted FY09
Operating Revenues:						
Fee revenue						
Revenue from State Services	2,057,043	2,105,376	2,624,142	5,078,720	5,556,743	5,591,445
Net Fee Revenue	2,057,043	2,105,376	2,624,142	5,078,720	5,556,743	5,591,445
Investment Earnings	-	-	-	-	-	-
Securities Lending Income	-	-	-	-	-	-
Premiums	-	-	119,534	-	-	-
Other Operating Revenues	56,227	-	3,024	-	-	-
Total Operating Revenue	2,113,270	2,105,376	2,746,700	5,078,720	5,556,743	5,591,445
Operating Expenses:						
Personal Services	2,467,609	2,691,955	2,970,567	3,250,680	3,955,023	3,936,026
Other Operating Expenses	1,143,806	1,417,642	1,182,083	1,293,549	1,573,830	1,566,270
Total Operating Expenses	3,611,415	4,109,597	4,152,650	4,544,229	5,528,853	5,502,296
Operating Income (Loss)	(1,498,145)	(2,004,221)	(1,405,950)	534,491	27,890	89,149
Nonoperating Revenues (Expenses):						
Gain (Loss) Sale of Fixed Assets	(1,181)	-	(54,192)	-	-	-
Federal Indirect Cost Recoveries	1,571,619	1,665,274	1,792,090	-	-	-
Other Nonoperating Revenues (Expenses)	-	-	-	-	-	-
Net Nonoperating Revenues (Expenses)	1,570,438	1,665,274	1,737,898	-	-	-
Income (Loss) Before Operating Transfers	72,293	(338,947)	331,948	534,491	27,890	89,149
Contributed Capital	-	-	-	-	-	-
Operating Transfers In (Note 13)	-	-	14,018	-	-	-
Operating Transfers Out (Note 13)	-	-	-	-	-	-
Change in net assets	72,293	(338,947)	345,966	534,491	27,890	89,149
Total Net Assets- July 1 - As Restated	1,109,504	1,182,067	842,340	1,156,198	1,690,689	1,718,579
Prior Period Adjustments	270	(780)	(32,108)	-	-	-
Cumulative effect of account change	-	-	-	-	-	-
Total Net Assets - July 1 - As Restated	1,109,774	1,181,287	810,232	1,156,198	1,690,689	1,718,579
Net Assets- June 30	1,182,067	842,340	1,156,198	1,690,689	1,718,579	1,807,728
60 days of expenses						
(Total Operating Expenses divided by 6)	601,903	684,933	692,108	757,372	921,476	917,049
Requested Rates for Internal Service Funds						
Fee/Rate Information						
	Actual FYE 04	Actual FYE 05	Actual FYE 06	Budgeted FY 07	Budgeted FY 08	Budgeted FY 09
Requested Rates for Internal Service Funds	22.6	23.0	25.0	25.0	-	-
(Changed Methodogy see below)						
Personal Services					22.5	21.0
Operating Expenditures					3.0	4.0
The department has one proprietary fund, which is an internal service fund used to account for the Department's indirect cost activity. The department anticipates negotiating the indirect cost rates with the U.S. Environmental Protection Agency (EPA) of approximately 22.5% applied against personal services and 3% applied against operating costs for FY2008 and 21% and 4% respectively for FY 2009. Revenues generated by the current indirect cost rates fund 55.50 FTE.						

Program Proposed Budget

The following table summarizes the total executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	89.58	2.00	2.00	93.58	2.00	2.00	93.58	93.58
Personal Services	4,246,220	957,476	105,248	5,308,944	975,979	105,334	5,327,533	10,636,477
Operating Expenses	5,998,514	1,767,638	85,393	7,851,545	1,799,269	90,588	7,888,371	15,739,916
Equipment	97,490	35,836	250,000	383,326	35,836	0	133,326	516,652
Total Costs	\$10,342,224	\$2,760,950	\$440,641	\$13,543,815	\$2,811,084	\$195,922	\$13,349,230	\$26,893,045
General Fund	2,155,109	730,501	440,641	3,326,251	739,164	195,922	3,090,195	6,416,446
State/Other Special	801,695	375,133	0	1,176,828	362,178	0	1,163,873	2,340,701
Federal Special	7,385,420	1,655,316	0	9,040,736	1,709,742	0	9,095,162	18,135,898
Total Funds	\$10,342,224	\$2,760,950	\$440,641	\$13,543,815	\$2,811,084	\$195,922	\$13,349,230	\$26,893,045

Program Description

The Planning, Prevention, and Assistance Division consist of three bureaus: Technical and Financial Assistance; Water Quality Planning; and Air, Energy and Pollution Prevention. The division:

1. Finances construction and improvement of community drinking water and wastewater systems, and provides engineering review and technical assistance to Montana communities water infrastructure planners;
2. Assists small businesses in reducing emissions and complying with environmental regulations;
3. Monitors air and water quality conditions, assesses potential pollution problems, and aids industry achieve cost effective compliance;
4. Assists community's to plan for energy, watershed, airshed, and solid and hazardous waste management;
5. Aids in development of water Total Maximum Daily Loads (TMDL);
6. Proposes rules and policy and develops environmental protection criteria;
7. Provides analysis to assess the cost effectiveness of environmental programs;
8. Finances energy saving retrofits of public buildings and renewable energy systems for homeowners and small businesses; and
9. Provides technical assistance and education to builders, homeowners and businesses on energy efficiency and renewable energy, indoor air quality, radon, recycling and solid waste reduction.

Program Highlights

Planning Prevention and Assistance Division Major Program Highlights	
◆	The operating adjustment is due to a large number of vacancies in the base year
◆	The executive is requesting the energy planning unit be restored and the waste recycling program expanded
◆	\$250,000 is included for equipment to test biofuels for marketability

Major LFD Issues

- ◆ The proposal to expand waste reduction and recycling is lacking clear performance criteria and milestones
- ◆ Reporting to the energy and telecommunications interim sub-committee regarding the activities of the energy planning unit may be beneficial to the legislature.

Funding

The division is funded with general fund and a variety of state special and federal revenue sources. The division's primary state special revenue funds are the fees collected for air quality permits and the interest from the investments made in community drinking water projects. The largest portion of federal funds are provided through the Environmental Protection Agency (EPA) programs, including the performance partnership grant and funds for non-point source water projects under the federal Clean Water Act.

The following table shows program funding, by source, for the base year and for the 2009 biennium as recommended by the executive.

Program Funding Table						
Plan.Prevent. & Assist.						
Program Funding	Base FY 2006	% of Base FY 2006	Budget FY 2008	% of Budget FY 2008	Budget FY 2009	% of Budget FY 2009
01000 Total General Fund	\$ 2,155,109	20.8%	\$ 3,326,251	24.6%	\$ 3,090,195	23.1%
01100 General Fund	2,155,109	20.8%	3,326,251	24.6%	3,090,195	23.1%
02000 Total State Special Funds	801,695	7.8%	1,176,828	8.7%	1,163,873	8.7%
02070 Hazardous Waste-Cercla	130,156	1.3%	123,066	0.9%	122,947	0.9%
02157 Solid Waste Management Fee	85,563	0.8%	129,647	1.0%	129,664	1.0%
02201 Air Quality-Operating Fees	188,457	1.8%	252,162	1.9%	252,295	1.9%
02203 Arco	-	-	25,339	0.2%	25,339	0.2%
02206 Agriculture Monitoring	6,279	0.1%	5,406	0.0%	5,415	0.0%
02223 Wastewater Srf Special Admin	82,857	0.8%	105,706	0.8%	94,988	0.7%
02278 Mpdcs Permit Program	88,529	0.9%	93,233	0.7%	93,406	0.7%
02316 Go94B/Ban 93D Admin	26,132	0.3%	58,075	0.4%	54,979	0.4%
02388 Misc. State Special Revenue	26,267	0.3%	23,390	0.2%	23,365	0.2%
02491 Drinking Water Spec Admin Cost	118,604	1.1%	164,069	1.2%	163,967	1.2%
02555 Alternative Energy Rev Loan	26,121	0.3%	36,121	0.3%	31,463	0.2%
02973 Univ System Benefits Program	22,730	0.2%	160,614	1.2%	166,045	1.2%
03000 Total Federal Special Funds	7,385,420	71.4%	9,040,736	66.8%	9,095,162	68.1%
03003 Tribal Air Quality Fund	784	0.0%	-	-	-	-
03007 Doe Special Projects	51,999	0.5%	177,819	1.3%	187,353	1.4%
03010 Nps 04 Projects	44,408	0.4%	-	-	-	-
03014 Dw Srf Ffy05 Grant	403,862	3.9%	711,215	5.3%	710,569	5.3%
03033 Energy/Fsd	57,573	0.6%	95,757	0.7%	95,726	0.7%
03100 Epa / Drinking Water Srf	31,368	0.3%	-	-	-	-
03106 Nps 05 Projects	1,237	0.0%	-	-	-	-
03107 National Park Service - Yellowstone	8,893	0.1%	44,587	0.3%	44,716	0.3%
03227 Fy06 Wetlands Grant	183,372	1.8%	664,772	4.9%	664,653	5.0%
03249 Nps Implementation Grant	357,846	3.5%	-	-	-	-
03262 Epa Ppg	-	-	2,567,491	19.0%	2,615,718	19.6%
03302 Wetlands Grant	37,145	0.4%	-	-	-	-
03311 Doe - Codes And Standards	4,292	0.0%	-	-	-	-
03312 Doe-Rebuild America	19,746	0.2%	45,841	0.3%	61,890	0.5%
03318 Mt School Lab Clean Up	15,617	0.2%	41,585	0.3%	49,775	0.4%
03364 Fy06 Nps 319 Projects Grant	1,234,135	11.9%	1,638,945	12.1%	1,638,945	12.3%
03433 Epa Perf Partnership Fy04-05	2,537,970	24.5%	-	-	-	-
03435 Pm 2.5 Fiscal Year 2004	307,457	3.0%	200,227	1.5%	164,540	1.2%
03436 Nps 04 Staffing & Support	-	-	-	-	1,235,689	9.3%
03437 Sep Base 2004	370,806	3.6%	735,796	5.4%	739,752	5.5%
03440 Dw Srf 03	160,326	1.6%	-	-	-	-
03457 Wpc Srf Fy03 Grant	301,699	2.9%	284,674	2.1%	269,237	2.0%
03459 Doe Competitive Special Proj	62,212	0.6%	112,778	0.8%	112,720	0.8%
03465 Doe Washington State Univ	11,905	0.1%	12,549	0.1%	20,360	0.2%
03676 Bureau Of Land Management	39,994	0.4%	41,200	0.3%	41,600	0.3%
03691 Nps Staffing/Support	963,311	9.3%	1,259,890	9.3%	-	-
03695 Srf St Tribal Rel Agrmt Grant	59,850	0.6%	168,807	1.2%	202,071	1.5%
03716 Doe - Omnibu	2,008	0.0%	-	-	-	-
03814 Epa Water Quality 205J	105,859	1.0%	96,760	0.7%	100,000	0.7%
03817 Emap	9,746	0.1%	140,043	1.0%	139,848	1.0%
Grand Total	\$ 10,342,224	100.0%	\$ 13,543,815	100.0%	\$ 13,349,230	100.0%

Present Law Adjustments

The “Present Law Adjustments” table shows the primary changes to the adjusted base budget proposed by the Governor. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
-----Fiscal 2008-----						-----Fiscal 2009-----				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				1,052,677					1,071,848	
Vacancy Savings				(211,959)					(212,721)	
Inflation/Deflation				20,084					21,472	
Fixed Costs				(189,037)					(183,908)	
Total Statewide Present Law Adjustments				\$671,765					\$696,691	
DP 2005 - Increase Waste Reduction & Recycling	0.00	0	35,000	0	35,000	0.00	0	35,000	0	35,000
DP 2009 - Wetland Pilot Project FTE	1.00	18,100	0	54,301	72,401	1.00	17,537	0	52,611	70,148
DP 2010 - PPA Operating Adjustment	0.00	314,983	324,611	1,262,087	1,901,681	0.00	312,293	322,669	1,294,469	1,929,431
DP 2013 - State Building Energy Conservation FTE	1.00	80,103	0	0	80,103	1.00	79,814	0	0	79,814
Total Other Present Law Adjustments										
	2.00	\$413,186	\$359,611	\$1,316,388	\$2,089,185	2.00	\$409,644	\$357,669	\$1,347,080	\$2,114,393
Grand Total All Present Law Adjustments				\$2,760,950						\$2,811,084

**LFD
COMMENT****Personal Services Adjustments**

The components driving the personal services adjustment are about \$900,000 for vacancies in the base year and \$413,578 for non-legislative pay adjustments. The remainder is attributable to annualization of the previous pay plan, longevity adjustments, and an increase to employer paid health insurance premiums. The non-legislative pay increases are attributable to market adjustments for environmental and administrative positions in the department wide pay initiative. Please see agency issues for a full description of the issue.

DP 2005 - Increase Waste Reduction & Recycling - The executive is requesting \$35,000 per year of solid waste management fees for increased operating expenses. This would allow the division to expand waste reduction and recycling efforts, including regional events to improve efficiency and reduce costs to local programs, increased education to consumers and local program operators, recycling technologies demonstration and market development for recycled materials to be used locally. This adjustment would increase the base budget for the program to \$120,000 per year.

The following information is provided so that the legislature can consider various performance management principles when examining this proposal. It is as submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: The Montana Integrated Waste Management Act (75-10-838, MCA) establishes targets to increase the amount of material that is recycled and composted. Those targets are 17 percent of the waste stream by 2008 and 19 percent by 2011, as compared to a current rate of about 15 percent. An increased effort is needed to reach these targets.

Goal: To increase the amount of material that is recycled or composted in Montana by developing local markets for recycled goods, demonstrating technologies for recycling and composting, providing opportunities for local programs to participate in regional or statewide initiatives, and educating consumers.

Performance Criteria: The department will meet its goals by increasing the number of opportunities to recycle, expanding the type of goods that can be recycled, providing regional or statewide opportunities to increase efficiency, and educating consumers. Services offered will be increased over 2006 in the following ways:

- Coordinating two regional hazardous waste collection events
- Coordinating five electronics recycling events
- Developing new markets for one recycled product within the state
- Developing and distributing educational materials on waste reduction and composting that can be used statewide or tailored for local communities.

Results will be collected and analyzed following each event and will be reported annually including the amount and type of materials recycled, number and type of events held, and educational materials produced.

Milestones:

- Regional hazardous waste events – 2007
- Electronic waste recycling events—3 in 2007, 2 in 2008
- New market for recycled product—2008
- Educational materials – 1 in 2007 and 1 in 2008

FTE: No additional FTE are being requested. Existing staff in the Air, Energy and Pollution Prevention Bureau will complete the work. No other work will be forgone in the process.

Funding: The funding source would be a \$35,000 annual appropriation from existing solid waste fees.

Obstacles: The rural nature of Montana, size of waste streams and distance to major market centers creates a challenge for collecting and processing goods to be recycled and natural materials to be composted.

Risk: The lack of additional operating expenses for this program activity can compromise the ability of the Department to meet waste reduction targets mandated by the Montana Integrated Waste Management Act.

**LFD
ISSUE**

Incomplete Plan

The Montana Integrated Waste Management Act dictates to the department the amount of material to be recycled or composted by FY 2008 and 2011. The department is seeking to increase the effort in order to achieve the statutory goal of 17 percent of the waste stream. The information provided articulates the goal, but fails to provide significant information to determine the return on investments. Two areas are weak: performance criteria and milestones

Performance criteria

The criteria as written are coordinated with the goal. However, the criteria are not specific, measurable, accountable, reportable, and time bound. The performance criteria should provide the legislature with an idea of who is responsible to do what by when and be able to have the data to substantiate it.

Vague Milestones

The milestones are too vague to determine when major accomplishments will be achieved. This may demonstrate a lack of planning and coordination. The milestones should be clear and coordinated to allow the legislature to “see” what should be accomplished by the end of the biennium.

Options

To address the weaknesses in the proposal, the legislature may wish to:

- Obtain from the department clear performance criteria and milestones prior to deliberations
- Approve the decision package and establish the performance criteria and require performance reporting by requesting a companion bill or in HB 2

DP 2009 - Wetland Pilot Project FTE - The department received a three-year wetland demonstration program pilot grant to develop two different assessment tools to track wetland gains and losses. At the end of the three years the department will be able to quantify gains and losses and report comparisons between the two approaches for three target areas in the state. The executive requests one additional Water Quality Specialist position to complete the work.

**LFD
COMMENT**

The 2005 legislature provided appropriations for this grant. However, the department did not request an FTE at that time. During the interim, the department obtained authority for a modified FTE through the Governor's budget office. This proposal would restore the base operating costs and provide funding for 1.00 FTE in the base.

DP 2010 - PPA Operating Adjustment - The executive requests to restore base operating expenses and delayed contracted services due to personnel vacancies. The Planning Division had 19 positions that were vacant from some period of time during the 2007 biennium. The majority of the request is for contracted services to cover delayed contracts, travel expenses and department indirect charges.

**LFD
COMMENT**

See the personal services issue in the agency discussion for more information.

DP 2013 - State Building Energy Conservation FTE - The executive recommends 1.00 FTE and approximately \$80,000 general fund each year of the biennium to provide dedicated staff for the State Building Energy Conservation Program. The current program is staffed on an ad-hoc basis from other positions within the division. Due to the success of the program and the increased demand due to high energy costs and increased potential savings, a permanent full-time position for the program is necessary.

New Proposals

New Proposals										
Program	FTE	Fiscal 2008				FTE	Fiscal 2009			
		General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds
DP 2001 - Annual Maint for Relational Database Mgt System IT										
20	0.00	30,000	0	0	30,000	0.00	30,000	0	0	30,000
DP 2006 - Restore Energy Planning Functions										
20	2.00	160,641	0	0	160,641	2.00	165,922	0	0	165,922
DP 2007 - Biofuels Testing - OTO										
20	0.00	250,000	0	0	250,000	0.00	0	0	0	0
Total	2.00	\$440,641	\$0	\$0	\$440,641	2.00	\$195,922	\$0	\$0	\$195,922

DP 2001 - Annual Maint for Relational Database Mgt System IT - The Water Quality Assessment, Reporting, and Documentation System (WARD) is the relational database developed to meet requirements of the consent decree and settlement agreement that ended the total maximum daily load (TMDL) litigation. This database is key to the assessment of impaired water bodies and the subsequent development of plans to address those impairments. The executive is requesting authority for annual software maintenance, upgrades and enhancements.

**LFD
COMMENT**

These maintenance costs were designated as one-time only in the 2007 biennial budget. According to state policy the maintenance needs of computer applications must be reflected in budget planning. The department anticipates ongoing maintenance needs.

DP 2006 - Restore Energy Planning Functions - The executive requests 2.00 FTE and general fund authority to re-establish the energy planning functions to the department. The positions would be used to provide statutorily required energy analysis and support for new challenges associated with the potential expansion of state and regional electrical energy transmissions.

The following information is provided so that the legislature can consider various performance management principles when examining this proposal. It is as submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity

Justification: Returning two FTE to the department in an energy planning function will partially restore Montana's capability to provide expert energy analysis and policy support to bear on the new challenges associated with a significant expansion of state and regional electric transmission infrastructure. This would aid in completing the statutorily required analysis of the economic need determination for new transmission and expansion projects and return specific petroleum policy expertise to the executive branch, which is needed both for energy emergency planning and to support the state's alternative and synthetic fuel initiatives.

Goal: To restore the department's ability to provide the expertise necessary to determine the need for new energy transmission capacity, and to provide policy support for the state's participation in regional and national energy dialogues, and the Governor's energy initiatives.

Performance Criteria: Progress on work will be reported to the Energy and Telecommunications Interim Committee and to the Governor's Office.

- Determinations of need under the Major Facility Siting Act (MFSA) will be completed by program staff for all new applications for major facilities within the statutorily required time frame
- Four meetings of the WGA's Western Interstate Energy Board (WIRB) and the associated Western Interconnect Regional Advisory Board (WIRAB) will be attended by program staff with reports prepared following each
- The state's energy emergency response plan will be reviewed and updated by December 2008
- Weekly meetings of the Governor's Coal to Liquids Task Force will be staffed
- Program staff will represent the executive branch in state utility planning efforts

Milestones:

- September 2007, April 2008, September 2008, April 2009 WIEB/WIRAB meetings will have substantive Montana participation
- October 2008, State Energy Emergency Plan updated
- Quarterly briefing updates for Energy and Telecommunications Interim Committee (ETIC), or less frequently at their request

FTE: Two FTE are being proposed. The FTE would be energy policy analysts able to focus on electricity, petroleum, natural gas, coal, energy efficiency and renewable energy issues.

Funding: Funding would be from the general fund.

Obstacles: None identified

Risk: The expected expansion applications must be reviewed and acted on by the executive branch within nine months of application. Absent restoring of the executive agencies ability to respond to applications, the state will be unable to meet its statutory obligations.

**LFD
ISSUE****Implementation Issues**

There are a number of issues with this proposal:

1. The type of FTE being requested
2. Oversight of the process by the Energy and Telecommunications Interim Committee (ETIC)
3. General fund request
4. Coordination with PL 5012 and NP 5013

FTE

The two requested FTE would provide multiple functions within the department: MFSA, energy planning, and energy advocacy and development efforts. This would require a broad base of expertise which may be difficult to recruit for. The positions are established as energy economists and are funded at just above the entry level.

Oversight

The oversight by the ETIC is a proposal by the department, not at the request of the interim committee. The legislature could require a quarterly report on the progress of MFSA applications and emergency energy functions. In doing this the legislature could adopt specific, measurable, accountable, reportable, and time bound performance criteria that would provide an indication of whether the department was meeting the stated goal. This requirement could be made in HB2 language or through a companion bill.

General Fund

The request for general fund may not be appropriate as the activities of the positions include MFSA analysis. The MFSA fee is required by statute to be collected for the purpose of funding the department's cost of processing the MFSA certification. The fee must be collected at the time of filing. The issue for the legislature is to determine if the MFSA activities of this proposal warrant financial participation from the filing fee.

Consideration

The executive budget also includes increased appropriation authority for MFSA activities in the Permitting and Compliance Division. The PL 5012 proposal re-establishes base authority for MFSA expenditures and NP 5013 requests an additional FTE for increased MFSA activities. The MFSA activities should therefore be considered as a whole.

In summary, given the issues raised, the legislature has a number of options available, including:

- Examine all MFSA packages at the same time to determine overall impact
- Require reporting on the recruitment of the FTE. If the department is unable to recruit qualified applicants based on salary, provide additional authority to increase the salaries of the 2.00 FTE via a companion bill
- Require quarterly reports to the ETIC based legislatively determined performance criteria through HB 2 language or a companion bill
- Fund the decision package with a combination of general fund and MFSA filing fees
- Make no changes

DP 2007 - Biofuels Testing - OTO - The executive requests a \$250,000 one-time-only biennial general fund appropriation to purchase equipment to test Montana-produced biofuels to ensure they meet national standards. This would allow the biofuels to be sold on the national market.

Language

"The department is authorized to decrease federal special revenue in the water pollution control and/or drinking water revolving loan programs, and to increase state special revenue by a like amount within the special administration account when the amount of federal capitalization funds have been expended or federal funds and bond proceeds will be used for other program purposes."

Program Proposed Budget

The following table summarizes the total executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	14.00	1.00	0.00	15.00	1.00	0.00	15.00	15.00
Personal Services	706,737	136,485	0	843,222	139,216	0	845,953	1,689,175
Operating Expenses	308,921	26,828	0	335,749	14,044	0	322,965	658,714
Total Costs	\$1,015,658	\$163,313	\$0	\$1,178,971	\$153,260	\$0	\$1,168,918	\$2,347,889
General Fund	404,184	109,997	0	514,181	100,663	0	504,847	1,019,028
State/Other Special	251,636	98,605	0	350,241	98,228	0	349,864	700,105
Federal Special	359,838	(45,289)	0	314,549	(45,631)	0	314,207	628,756
Total Funds	\$1,015,658	\$163,313	\$0	\$1,178,971	\$153,260	\$0	\$1,168,918	\$2,347,889

Program Description

The Enforcement Division is the central control for activities designed to facilitate the enforcement of the statutes and regulations administered by the department. The division develops department enforcement policies and procedures for approval by the director and ensures they are implemented in a consistent manner across the department. A citizen complaint clearinghouse and information tracking system is maintained by the division. The division coordinates the legal and technical aspects of enforcement cases, both administrative and judicial, and monitors violators to determine compliance with department orders.

Program Highlights

Enforcement Division	
Major Program Highlights	
◆	1.00 FTE is requested to assist in meeting statutory guidelines for complaint resolution and issuing of orders
Major LFD Issues	
◆	The status of meeting statutory guidelines for complaint resolution and issuing of orders could not be determined

Funding

The division is funded with general fund and a variety of state special and federal revenue sources. The division's primary state special revenue funds are the fees collected for air, asbestos control, and discharge permits, as well as subdivision review fees. The largest percentage of federal funds is provided through the Environmental Protection Agency (EPA) programs, predominantly the performance partnership grant.

The following table shows program funding, by source, for the base year and for the 2009 biennium as recommended by the executive.

Program Funding Table Enforcement Division							
Program Funding		Base FY 2006	% of Base FY 2006	Budget FY 2008	% of Budget FY 2008	Budget FY 2009	% of Budget FY 2009
01000	Total General Fund	\$ 404,184	39.8%	\$ 514,181	43.6%	\$ 504,847	43.2%
	01100 General Fund	404,184	39.8%	514,181	43.6%	504,847	43.2%
02000	Total State Special Funds	251,636	24.8%	350,241	29.7%	349,864	29.9%
	02075 Ust Leak Prevention Program	74,234	7.3%	54,095	4.6%	54,037	4.6%
	02201 Air Quality-Operating Fees	74,812	7.4%	49,137	4.2%	49,085	4.2%
	02202 Asbestos Control	-	-	36,357	3.1%	36,318	3.1%
	02204 Public Drinking Water	41,980	4.1%	107,088	9.1%	106,973	9.2%
	02278 Mpdcs Permit Program	34,686	3.4%	40,324	3.4%	40,279	3.4%
	02418 Subdivision Plat Review	-	-	31,840	2.7%	31,806	2.7%
	02458 Reclamation & Development	4,720	0.5%	4,407	0.4%	4,403	0.4%
	02845 Junk Vehicle Disposal	21,204	2.1%	26,993	2.3%	26,963	2.3%
03000	Total Federal Special Funds	359,838	35.4%	314,549	26.7%	314,207	26.9%
	03067 Dsl Federal Reclamation Grant	17,975	1.8%	10,467	0.9%	10,455	0.9%
	03228 L.U.S.T./Trust	22,937	2.3%	34,485	2.9%	34,447	2.9%
	03262 Epa Ppg	-	-	219,908	18.7%	219,669	18.8%
	03433 Epa Perf Partnership Fy04-05	263,583	26.0%	-	-	-	-
	03436 Nps 04 Staffing & Support	-	-	-	-	49,636	4.2%
	03691 Nps Staffing/Support	55,343	5.4%	49,689	4.2%	-	-
Grand Total		<u>\$ 1,015,658</u>	<u>100.0%</u>	<u>\$ 1,178,971</u>	<u>100.0%</u>	<u>\$ 1,168,918</u>	<u>100.0%</u>

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
-----Fiscal 2008-----					-----Fiscal 2009-----				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				120,016					122,821
Vacancy Savings				(33,070)					(33,182)
Inflation/Deflation				4,894					5,187
Fixed Costs				(27,376)					(26,579)
Total Statewide Present Law Adjustments				\$64,464					\$68,247
DP 3001 - Enforcement Operations Adjustments	0.00	8,574	6,872	21,619	0.00	6,601	5,292	4,752	16,645
DP 3002 - Enforcement Division New FTE	1.00	77,230	0	77,230	1.00	68,368	0	0	68,368
Total Other Present Law Adjustments	1.00	\$85,804	\$6,872	\$98,849	1.00	\$74,969	\$5,292	\$4,752	\$85,013
Grand Total All Present Law Adjustments				\$163,313					\$153,260

LFD COMMENT

Personal Services Adjustments

The components driving the personal services adjustment are about \$123,000 for vacancies in the base year and about \$32,800 in non-legislative pay adjustments. The remainder is attributable to annualization of the previous pay plan, longevity adjustments, and increase to employer paid health insurance premiums. The market adjustments were provided as part of the department wide pay initiative. Please see agency issues for a full description of the issue.

DP 3001 - Enforcement Operations Adjustments – The Governor requests additional base authority for operating expenses such as lab analysis, in-state travel and agency indirect payments. The indirect increase is due to the proposed change in the indirect calculations. The other adjustments relate to increased costs associated with program activities.

DP 3002 - Enforcement Division New FTE - The Governor is requesting an additional environmental enforcement specialist position to address violations and citizen complaints within statutory guidelines.

**LFD
ISSUE****Questionable Data**

The division does not always achieve the goals of closing citizen complaints within 90 days and issuing orders within 120 days. The availability of specific statistics regarding this work is questionable. The LFD asked the department the following questions and received the following summarized answers:

- What is the average response time to citizen complaints?
- The goal is to resolve citizen complaints within 90 days, but it is difficult to generalize with averages. On the average the division has been able to resolve complaints within 60-90 days.
- What is the average time to issue an order?
- The goal is to issue orders within 120 days as memorialized in an enforcement agreement with the Environmental Protection Agency (EPA). On average orders are released within 100- 120 days

The answers indicate that current workload is being completed within time frames, but are relative guesstimates as the department did not provide actual statistics. An increase in workload could change the relative averages. As such, the department has indicated there has been increased pressure from the EPA to address the enforcement backlog in the Public Water Supply program. The issue is whether the additional position is warranted. The legislature may wish to:

- Obtain definitive information regarding the “back-log” of enforcement action related to the Public Water Supply Program prior to deliberations
- Require the department to establish and manage performance criteria that clearly demonstrate the progress toward statutory time frames
- Disapprove the package as statutory time frames appear to be met

Program Proposed Budget

The following table summarizes the total executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	61.76	0.00	0.00	61.76	0.00	0.00	61.76	61.76
Personal Services	2,847,299	617,299	0	3,464,598	628,959	0	3,476,258	6,940,856
Operating Expenses	7,983,127	3,687,811	0	11,670,938	3,716,667	0	11,699,794	23,370,732
Equipment	5,831	(5,831)	0	0	(5,831)	0	0	0
Benefits & Claims	0	2,050,000	0	2,050,000	2,050,000	0	2,050,000	4,100,000
Debt Service	1,807	0	0	1,807	0	0	1,807	3,614
Total Costs	\$10,838,064	\$6,349,279	\$0	\$17,187,343	\$6,389,795	\$0	\$17,227,859	\$34,415,202
General Fund	0	1,000,000	0	1,000,000	1,000,000	0	1,000,000	2,000,000
State/Other Special	3,472,724	3,797,851	0	7,270,575	3,797,932	0	7,270,656	14,541,231
Federal Special	7,365,340	1,551,428	0	8,916,768	1,591,863	0	8,957,203	17,873,971
Total Funds	\$10,838,064	\$6,349,279	\$0	\$17,187,343	\$6,389,795	\$0	\$17,227,859	\$34,415,202

Program Description

The Remediation Division protects human health and the environment by preventing exposure to hazardous substances that have been released to soil, sediment, surface water, or groundwater. The division also ensures compliance with state and federal regulations. The division's responsibilities include: oversight, investigation, and cleanup activities at state and federal Superfund sites, and voluntary cleanup activities; reclamation of abandoned mine lands; implementation of corrective actions at sites with leaking underground storage tanks; and oversight of groundwater remediation at sites where improper placement of wastes has caused groundwater contamination. This division is divided into two bureaus:

5. The Hazardous Waste Site Cleanup Bureau (HWSCB) oversees or conducts the investigation and cleanup of sites contaminated by chemical spills, hazardous substances, and petroleum released by industrial and commercial operations other than mining. The bureau works with the Petroleum Tank Release Compensation Board for eligibility and reimbursement determinations and provides grants to local governments for compliance assistance.
6. The Mine Waste Cleanup Bureau (MWCB) is responsible for administering and overseeing remedial actions at historical mine sites, abandoned mines, ore-transport, and processing facilities. It also oversees the provisions of the federal Comprehensive Environmental Response and Liability Act (CERCLA or federal Superfund Program).

Program Highlights

Remediation Division Major Program Highlights	
♦	The executive is requesting \$4.0 million of orphan share funding over the biennium to cover the cost of clean up when responsible parties are bankrupt or otherwise insolvent
♦	\$ 2.7 million per year in bond proceeds would be used to cover the state's share of costs at various Superfund sites
♦	\$2.0 million of general fund is proposed to accelerate remediation efforts of the upper Blackfoot mining complex where potentially liable parties are not fulfilling remediation obligations

Major LFD Issues

- ◆ The request for orphan share adds authority to the base budget for activities that may not occur
- ◆ The potentially liable parties can be compelled to reimburse the state for activities completed at the upper Blackfoot mining complex

Funding

The remediation division is funded with a mix of general fund, state special, and federal revenue sources. The division is requesting general fund for mine site clean up for the 2009 biennium. State special revenue comes from the \$.00075 gas tax for petroleum tank cleanup, registration fees for underground storage tanks, and interest proceeds from the resource indemnity trust deposited to the environmental quality protection, orphan share, and hazardous waste funds. Federal special revenue is derived from the federal Environmental Protection Agency (EPA) for Superfund oversight and various other activities, and the federal Office of Surface Mining for the Abandoned Mine Lands (AML) program.

The following table shows program funding, by source, for the base year and for the 2009 biennium as recommended by the executive.

Program Funding Table Remediation Division						
Program Funding		Base FY 2006	% of Base FY 2006	Budget FY 2008	% of Budget FY 2008	Budget FY 2009
01000 Total General Fund		\$ -	-	\$ 1,000,000	5.8%	\$ 1,000,000
01100 General Fund		-	-	1,000,000	5.8%	1,000,000
02000 Total State Special Funds		3,472,724	32.0%	7,270,575	42.3%	7,270,656
02006 Fy08 Go Cercla Bond Proceeds		-	-	2,700,000	15.7%	-
02058 Petroleum Storage Tank Cleanup		1,237,020	11.4%	1,400,329	8.1%	1,401,860
02064 Fy09 Go Cercla Bond Proceeds		-	-	-	-	2,700,000
02070 Hazardous Waste-Cercla		23,911	0.2%	28,966	0.2%	29,084
02162 Environmental Quality Protecti		1,054,708	9.7%	749,374	4.4%	747,073
02206 Agriculture Monitoring		24,488	0.2%	24,228	0.1%	24,257
02438 Pegasus - Beal Mountain		-	-	95,000	0.6%	95,000
02472 Orphan Share Fund		15,561	0.1%	2,067,503	12.0%	2,067,523
02565 Lust Cost Recovery		110	0.0%	100,000	0.6%	100,000
02775 Cercla Go Bonds		1,032,139	9.5%	-	-	-
02940 Pegasus - Basin		84,787	0.8%	105,175	0.6%	105,859
03000 Total Federal Special Funds		7,365,340	68.0%	8,916,768	51.9%	8,957,203
03158 Blm Interagency Agreement		-	-	100,000	0.6%	100,000
03221 Osm Coal Outcrop Fires		32,614	0.3%	50,000	0.3%	50,000
03222 Lockwood Superfund Site		112,551	1.0%	-	-	-
03228 L.U.S.T./Trust		719,437	6.6%	750,863	4.4%	751,742
03257 Superfund Multi-Site		1,244,300	11.5%	-	-	-
03259 Superfund Multi Site		-	-	1,850,000	10.8%	1,850,000
03262 Epa Ppg		-	-	104,147	0.6%	103,795
03433 Epa Perf Partnership Fy04-05		104,453	1.0%	-	-	-
03438 Brownsfield State Response		564,864	5.2%	1,097,467	6.4%	1,099,765
03447 Deq-Federal Aml03 Grant		4,270,265	39.4%	4,083,995	23.8%	4,119,750
03463 Mine Lease/Reclamation		2,709	0.0%	130,000	0.8%	130,000
03468 Core Cooperative Grant-Fy05		207,549	1.9%	251,312	1.5%	252,307
03721 Libby Asbestos/Troy		106,598	1.0%	498,984	2.9%	499,844
Grand Total		<u>\$ 10,838,064</u>	<u>100.0%</u>	<u>\$ 17,187,343</u>	<u>100.0%</u>	<u>\$ 17,227,859</u>

Present Law Adjustments

The “Present Law Adjustments” table shows the primary changes to the adjusted base budget proposed by the Governor. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
Fiscal 2008					Fiscal 2009					
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				761,663					773,803	
Vacancy Savings				(144,364)					(144,844)	
Inflation/Deflation				17,680					18,868	
Fixed Costs				(108,899)					(104,812)	
Total Statewide Present Law Adjustments				\$526,080					\$543,015	
DP 4001 - Remediation Operations Adjustment										
0.00	0	(352,039)	(136,396)	(488,435)	0.00	0	(357,047)	(107,805)	(464,852)	
DP 4002 - Bond Sale for state obligations at Superfund sites										
0.00	0	2,700,000	0	2,700,000	0.00	0	2,700,000	0	2,700,000	
DP 4003 - Hazardous Waste Cleanup Bureau LUST Trust BIE										
0.00	0	99,881	0	99,881	0.00	0	99,880	0	99,880	
DP 4004 - Mine Waste Cleanup Bureau Beal (BIEN)										
0.00	0	95,000	0	95,000	0.00	0	95,000	0	95,000	
DP 4006 - Mine Waste Cleanup Bureau Libby Troy (BIEN)										
0.00	0	0	366,753	366,753	0.00	0	0	366,752	366,752	
DP 4007 - Orphan Share Claims Payments (RST/BIEN)										
0.00	0	2,050,000	0	2,050,000	0.00	0	2,050,000	0	2,050,000	
DP 4008 - Accelerated Remediation Selected CECRA Sites OTO										
0.00	1,000,000	0	0	1,000,000	0.00	1,000,000	0	0	1,000,000	
Total Other Present Law Adjustments										
0.00	\$1,000,000	\$4,592,842	\$230,357	\$5,823,199	0.00	\$1,000,000	\$4,587,833	\$258,947	\$5,846,780	
Grand Total All Present Law Adjustments				\$6,349,279					\$6,389,795	

LFD COMMENT

The components driving the personal services adjustment are about \$524,000 for vacancies in the base year and \$410,000 for non-legislative pay adjustments. The remainder is attributable to annualization of the previous pay plan, longevity adjustments, and increase to employer paid health insurance premiums. The market adjustments were provided as part of the department wide pay initiative. Please see agency issues for a full description of the issue.

DP 4001 - Remediation Operations Adjustment – The executive is requesting a base adjustment consisting of two parts: 1) an increase in operating expenses in relation to vacancies during the base year; and 2) a decrease in contracted services related to the adjustment in federal abandoned mine lands funding. The net effect is a decrease of approximately \$0.5 million over the biennium.

LFD COMMENT

The 2005 Legislature provided additional federal authority for the federal abandoned mine program as there were additional funds proposed to default to Montana under certain program re-authorization scenarios. Those scenarios did not occur. The net adjustment reflects the amount the department anticipates under the current authorization plan.

DP 4002 - Bond Sale for state obligations at Superfund sites - The executive recommends \$5.4 million state special revenue over the 2009 biennium to spend bond proceeds from CERCLA bonds sold under the authority of 75-10-623, MCA. This would allow expenditures for state obligations at 10-Mile, Libby, East Helena, and Carpenter Snow Creek.

**LFD
COMMENT**

Fund-lead sites are sites for which there is no responsible party. Under federal Superfund law, the state is required to provide a 10 percent match to any federal funds used at fund-lead sites to achieve cleanup. The state is also required to fund 100 percent of long-term operations and maintenance costs, should there be any. Bond sales occur at specific points in time during the Superfund process. The department anticipates the earliest bond sale as the fall of 2008.

DP 4003 - Hazardous Waste Cleanup Bureau LUST Trust (BIE) - The executive requests a \$199,761 state special revenue biennial appropriation for the department's Petroleum Release Section. The department is required to recover federal grant funds expended in the cleanup of contamination from certain federally defined tanks. Under leaking underground storage tank (LUST) federal law, any state-recovered monies must continue to be used for cleanup of other sites also meeting federal LUST site criteria.

DP 4004 - Mine Waste Cleanup Bureau Beal (BIEN) - The executive recommends \$95,000 state special revenue each year of the 2009 biennium to expend the remaining funds that the department recovered from its bond forfeiture action of the Pegasus Beal Mountain mine for post-bankruptcy management of the mine site.

**LFD
COMMENT**

These funds will be expended when the department and USFS negotiations for post-bankruptcy management of the former Pegasus Beal Mountain mine site are complete. The department has proposed to the USFS that in exchange for a release of future obligations at this site, the department would provide to the USFS the remaining reclamation bond funds and all property acquired in the process. The USFS has not provided a timeline to respond to this proposal.

DP 4006 - Mine Waste Cleanup Bureau Libby Troy (BIEN) - The executive recommends \$733,505 in biennial federal special revenue for additional investigation and remediation planning at the Libby Troy Asbestos site. The grant provides for the department to take the role of the lead regulatory agency at this site.

**LFD
COMMENT**

The lead regulatory agency is the entity that manages the investigation activities of the site. This does not increase nor decrease the potential financial obligation of the state for remediation activities.

DP 4007 - Orphan Share Claims Payments (RST/BIEN) - The executive requests \$2.05 million state special revenue each year of the biennium to reimburse remedial action costs claimed for the orphan's share of eligible remedial action costs for contaminated sites and to defend the liability allocation process in these cleanups. There are two petitions for liability allocation, one for the CMC Asbestos facility in Bozeman and one for the Joslyn Tailings facility in Helena. A third potential request is the S&W Sawmill facility in Darby.

**LFD
ISSUE****Historic Request**

The legislature has approved similar amounts for the same facilities for the last three biennia and payments for claims have not been made. If approved, the legislature may wish to condition the appropriation as one-time only.

**LFD
COMMENT**

The 2005 Legislature approved a resolution to study the Resource Indemnity Trust funds and related accounts to resolve issues regarding fund utilization, cross competition, and statutory clarity. The study was completed by a subcommittee of the Legislative Finance Committee. The recommendations of the sub-committee included activities related to the orphan share fund. The recommendations and related activities are:

- A request to the Legislative Audit Committee to subject the orphan share program to a performance audit to determine why the program is not processing claim payments
- The performance audit will not be completed in time for legislative deliberations
- Eliminating the groundwater revenues to the orphan share fund as they have been historically diverted to the hazardous waste fund and the environmental quality protection fund
- LC 0147 addresses changes to the orphan share fund. The change will not affect the current fund balance, therefore adequate funding is available for this decision package.

DP 4008 - Accelerated Remediation Selected CECRA Sites OTO - The executive requests \$2 million in general fund authority for contracted services at the Upper Blackfoot Mining Complex (UBMC) facility, a state Superfund site to conduct remedial investigation and subsequent cleanup activities to address contaminants affecting human health and the environment. The expenditures at these sites are cost recoverable from the potentially liable parties; ASARCO and ARCO.

The following information is provided so that the legislature can consider various performance management principles when examining this proposal. It is as submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: The department will use the requested funding and spending authority to conduct various phases of investigation and cleanup work at the Upper Blackfoot Mining Complex where the potentially liable persons are not accomplishing the necessary work in a proper and expeditious manner.

Goal: To conduct the remedial investigations needed to fill previously identified data gaps so that the nature and extent of the contamination at the facility can be determined.

Performance Criteria: At the Upper Blackfoot Mining Complex, progress will be measured by the completion of the remedial investigation work plan, field work, and remedial investigation report. Contract task orders include specific reporting and financial requirements that will be overseen by department staff. Department staff will also review draft contractor work products and provide necessary additional guidance for completion.

Milestones: Major milestones at the Upper Blackfoot Mining Complex include:

- December 2007 – completion of the remedial investigation work plan.
- September 2008 – completion of field work.
- January 2009 – completion of remedial investigation report.

FTE: Existing department staff will continue to provide oversight and technical expertise and contractor services will be used to assist with technical and field work.

Obstacles: Obstacles at the Upper Blackfoot Mining Complex include:

- Uncertainty regarding the outcome of the Asarco bankruptcy.
- Potentially liable persons are unwilling to properly complete work
- An impact to USFS lands –The department and the USFS have developed a working group to share information, avoid duplication, and develop approaches to address contamination on public and private lands concurrently where possible and in a logical fashion.

Risk: The Department is currently in litigation with potentially liable persons and until that litigation is resolved, no remedial investigation will be completed. Providing cost recoverable funding to complete the work would allow the department to move the facility closer to final cleanup and may help expedite resolution of the litigation.

**LFD
ISSUE****Setting Precedence With General Fund**

Funding is not addressed in the additional information. Remediation at state Superfund sites has historically been paid for with funds from the environmental quality protection fund (EQPF). This fund receives limited revenues from the Resource Indemnity Trust interest and cost recoveries from potential responsible parties, and has been supplemented by transfers from the orphan share. (See Resource Indemnity Trust write up in the agency section of the Department of Natural Resources and Conservation.) The EQPF is not in a stable financial position to take on the cost of this activity and, the financial solvency of ASARCO is in question, therefore the executive is requesting general fund. However, this appropriation would set a new precedent for use of these funds. Montana currently has 210 state Superfund sites.

The issue for the legislature is whether the general fund should be used for the purpose of remediation a state Superfund site. As proposed, the department would utilize general fund to remediate this site and attempt cost recovery from the potentially liable parties and deposit any such recovery back to the fund. The general fund then becomes the revolving fund for state Superfund activities, rather than the EQPF. If this would occur, the state benefits, but the most affected citizens would be those within the immediate clean up area.

The legislature has the ability to examine possibilities, including:

- Increase statutory allocations of RIT interest to the EQPF to provide enough operating revenues to appropriate the authority from EQPF
- Transfer \$2.0 million of general fund to the EQPF to establish a fund balance that could cover the requested appropriation authority. Language in HB 2 could be utilized to transfer the funding and the appropriation could be established in a line item from the EQPF for this specific purpose. Any cost recovery could be deposited to the EQPF.

Program Proposed Budget

The following table summarizes the total executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget	Base Budget	PL Base Adjustment	New Proposals	Total Exec. Budget	PL Base Adjustment	New Proposals	Total Exec. Budget	Total Exec. Budget
Budget Item	Fiscal 2006	Fiscal 2008	Fiscal 2008	Fiscal 2008	Fiscal 2009	Fiscal 2009	Fiscal 2009	Fiscal 08-09
FTE	181.45	6.00	6.50	193.95	6.00	6.50	193.95	193.95
Personal Services	8,938,144	1,587,391	364,956	10,890,491	1,617,755	365,268	10,921,167	21,811,658
Operating Expenses	6,176,660	4,779,602	697,451	11,653,713	4,773,086	177,948	11,127,694	22,781,407
Equipment	18,791	0	0	18,791	0	0	18,791	37,582
Grants	1,637,948	357,000	0	1,994,948	385,000	0	2,022,948	4,017,896
Total Costs	\$16,771,543	\$6,723,993	\$1,062,407	\$24,557,943	\$6,775,841	\$543,216	\$24,090,600	\$48,648,543
General Fund	905,066	118,675	573,927	1,597,668	119,945	73,982	1,098,993	2,696,661
State/Other Special	11,230,333	4,562,884	238,095	16,031,312	4,592,732	231,107	16,054,172	32,085,484
Federal Special	4,636,144	2,042,434	250,385	6,928,963	2,063,164	238,127	6,937,435	13,866,398
Expendable Trust	0	0	0	0	0	0	0	0
Total Funds	\$16,771,543	\$6,723,993	\$1,062,407	\$24,557,943	\$6,775,841	\$543,216	\$24,090,600	\$48,648,543

Program Description

The Permitting and Compliance Division administers all DEQ permitting and compliance activities based on 25 state regulatory and 5 related federal authorities. The division:

- 1) Reviews and assesses environmental permit applications (coordinating with other state, local, and federal agencies) to determine control measures needed to ensure compliance with the law and to prevent land, water, and air conditions detrimental to public health welfare, safety and the environment;
- 2) Prepares supporting environmental documents under the Montana Environmental Policy Act and provides training and technical assistance when needed;
- 3) Inspects to determine compliance with permit conditions, laws, and rules; and
- 4) Provides assistance to resolve the facility's compliance issues, and when necessary recommends formal enforcement actions to the Enforcement Division.

Activities are organized in the Air Resources Management Bureau (air); Industrial and Energy Minerals Bureau (coal, uranium, opencut); Environmental Management Bureau (hard rock, facility siting); Public Water and Subdivision Bureau (public water supply and subdivision); Water Protection Bureau (water discharge); and Waste and Underground Tank Management Bureau (solid waste, junk vehicles, septage pumpers, hazardous waste, asbestos, underground storage tanks).

Program Highlights

Permitting and Compliance Division	
Major Program Highlights	
◆	The division has requested 3.00 FTE and \$1.4 million in state special revenue authority to improve the air quality program
◆	5.00 FTE are requested to convert modified positions to permanent positions
◆	Two proposals for waste water certification are to address testing materials
◆	Resources for air and water quality issues related to coal bed methane development are being requested.
◆	Base adjustments can be tied to vacancies in the base year
Major LFD Issues	
◆	The proposed air quality adjustments will require an increase in air permitting fees
◆	The division has difficulties recruiting and retaining qualified environmental scientists
◆	Performance reporting would be beneficial to track progress on timeliness of permitting and approving activities

Funding

The division is funded with general fund and a variety of state and federal special revenue sources. The general fund provides 4.5 percent of the total funding and supports operating expenses.

State special revenue consists of forfeited hard rock reclamation bonds, and fees collected for various activities such as air permits, junk vehicle fines, public water supply connections, and subdivision reviews. These funds are used to administer related permits and compliance operations in the division. The division also receives Resource Indemnity Trust (RIT) interest via the reclamation and development account.

Federal special revenue sources include the Environmental Protection Agency (EPA), and the Bureau of Land Management (BLM). Federal funds are directed toward specific sites or for primacy costs of the permitting programs.

The following table shows program funding, by source, for the base year and for the 2009 biennium as recommended by the executive.

Permitting & Compliance						
Program Funding	Base	% of Base	Budget	% of Budget	Budget	% of Budget
	FY 2006	FY 2006	FY 2008	FY 2008	FY 2009	FY 2009
01000 Total General Fund	\$ 905,066	5.4%	\$ 1,597,668	6.5%	\$ 1,098,993	4.6%
01100 General Fund	905,066	5.4%	1,597,668	6.5%	1,098,993	4.6%
02000 Total State Special Funds	11,230,333	67.0%	16,031,312	65.3%	16,054,172	66.6%
02054 Ust-Installer Lic & Permit Acc	79,768	0.5%	52,942	0.2%	55,874	0.2%
02070 Hazardous Waste-Cercla	394,145	2.4%	397,922	1.6%	395,031	1.6%
02075 Ust Leak Prevention Program	276,497	1.6%	386,781	1.6%	384,062	1.6%
02095 Pegasus Reclamation/Zortman	37,500	0.2%	-	-	-	-
02096 Reclamation - Bond Forfeitures	23,393	0.1%	222,938	0.9%	250,000	1.0%
02130 Zort/Land Exploration Bond For	9,982	0.1%	-	-	-	-
02157 Solid Waste Management Fee	561,359	3.3%	569,106	2.3%	568,911	2.4%
02201 Air Quality-Operating Fees	2,256,037	13.5%	3,571,340	14.5%	3,562,514	14.8%
02202 Asbestos Control	158,265	0.9%	210,831	0.9%	215,738	0.9%
02204 Public Drinking Water	667,263	4.0%	807,498	3.3%	807,558	3.4%
02276 Pegsauss Reclamation/Zort-Land	19,700	0.1%	-	-	-	-
02278 Mpdcs Permit Program	1,269,176	7.6%	1,607,770	6.5%	1,601,907	6.6%
02418 Subdivision Plat Review	1,068,815	6.4%	1,694,329	6.9%	1,679,414	7.0%
02420 Bd Of Cert For W&W Op	84,776	0.5%	102,754	0.4%	106,425	0.4%
02421 Hazardous Waste Fees	51,883	0.3%	51,220	0.2%	50,968	0.2%
02428 Major Facility Siting	101,080	0.6%	591,576	2.4%	592,857	2.5%
02458 Reclamation & Development	1,570,512	9.4%	1,662,458	6.8%	1,665,690	6.9%
02521 Pegasus Bankruptcy/Operations	832,143	5.0%	750,000	3.1%	750,000	3.1%
02754 Opencut Mining Fees	-	-	7,682	0.0%	7,995	0.0%
02845 Junk Vehicle Disposal	1,743,218	10.4%	2,001,909	8.2%	2,031,427	8.4%
02947 Zortman/Landusky Nitrate Systm	9,046	0.1%	27,062	0.1%	-	-
02954 Septage Fees	15,775	0.1%	27,694	0.1%	27,801	0.1%
02988 Hard Rock Mining Reclamation	-	-	1,287,500	5.2%	1,300,000	5.4%
03000 Total Federal Special Funds	4,636,144	27.6%	6,928,963	28.2%	6,937,435	28.8%
03014 Dw Srf Ffy05 Grant	361,957	2.2%	891,985	3.6%	891,228	3.7%
03040 Operator Training Reimbursemnt	159,475	1.0%	284,734	1.2%	286,190	1.2%
03067 Dsl Federal Reclamation Grant	1,014,170	6.0%	1,157,854	4.7%	1,158,063	4.8%
03071 Us Forest Service Agreement	1,392	0.0%	20,600	0.1%	20,800	0.1%
03262 Epa Ppg	-	-	2,621,710	10.7%	2,633,165	10.9%
03326 Blm For Zortman & Landusky	45,344	0.3%	1,266,900	5.2%	1,279,200	5.3%
03433 Epa Perf Partnership Fy04-05	2,641,965	15.8%	-	-	-	-
03435 Pm 2.5 Fiscal Year 2004	6,067	0.0%	13,520	0.1%	13,576	0.1%
03436 Nps 04 Staffing & Support	-	-	-	-	99,166	0.4%
03438 Brownsfield State Response	35,607	0.2%	160,284	0.7%	159,297	0.7%
03440 Dw Srf 03	185,367	1.1%	-	-	-	-
03442 Dw Srf 03	44,554	0.3%	-	-	-	-
03480 Blm Cbm Agreement	-	-	360,597	1.5%	345,093	1.4%
03691 Nps Staffing/Support	97,610	0.6%	98,804	0.4%	-	-
03798 Homeland Water System Security	42,636	0.3%	51,975	0.2%	51,657	0.2%
08000 Total	-	-	-	-	-	-
08166 Rhodia Restitution Fund	-	-	-	-	-	-
Grand Total	\$ 16,771,543	100.0%	\$ 24,557,943	100.0%	\$ 24,090,600	100.0%

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
Fiscal 2008					Fiscal 2009					
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				1,684,099						1,715,395
Vacancy Savings				(424,894)						(426,137)
Inflation/Deflation				40,217						43,234
Fixed Costs				(324,343)						(314,596)
Total Statewide Present Law Adjustments				\$975,079						\$1,017,896
DP 5001 - Oil & Gas Well Registration FTE	3.00	0	183,451	103,320	286,771	3.00	0	176,569	99,774	276,343
DP 5002 - Permitting Major Sources of Air Pollution FTE	1.00	0	75,076	0	75,076	1.00	0	71,922	0	71,922
DP 5003 - Air Online Compliance Reporting-RST/OTO/BIE	0.00	0	77,250	0	77,250	0.00	0	78,000	0	78,000
DP 5005 - Air Pollutant Emission Tracking	1.00	0	75,076	0	75,076	1.00	0	71,922	0	71,922
DP 5006 - Air Resources Bureau Relocation-RST/OTO/BIE	0.00	13,390	53,560	0	66,950	0.00	13,520	54,080	0	67,600
DP 5009 - PCD Vehicles Owned and Leased	0.00	2,727	24,875	10,565	38,167	0.00	3,026	26,511	11,098	40,635
DP 5011 - Aerial Reconnaissance in Coal Mine Inspection	0.00	0	7,725	0	7,725	0.00	0	7,800	0	7,800
DP 5012 - Hard Rock & MFSA Projects-RST/BIE	0.00	0	1,820,367	1,240,764	3,061,131	0.00	0	1,837,867	1,253,264	3,091,131
DP 5015 - Industrial Wastewater Operator Cert BIE/OTO	0.00	0	33,438	0	33,438	0.00	0	33,750	0	33,750
DP 5016 - High Strength Wastewater Standards BIE/OTO	0.00	0	30,900	0	30,900	0.00	0	31,200	0	31,200
DP 5017 - Subdivision Training IT	0.00	0	51,500	0	51,500	0.00	0	52,000	0	52,000
DP 5018 - Public Water Supply - Kalispell FTE	1.00	0	40,239	40,239	80,478	1.00	0	38,765	38,765	77,530
DP 5019 - Subdivision Grants to Counties	0.00	0	243,000	0	243,000	0.00	0	243,000	0	243,000
DP 5024 - Brownsfields Grant BIEN	0.00	0	0	119,600	119,600	0.00	0	0	118,450	118,450
DP 5026 - Permitting & Compliance Division Base Adjustments	0.00	58,878	832,694	270,380	1,161,952	0.00	57,723	827,802	267,937	1,153,462
DP 5027 - On-site Wastewater Operator Certification OTO/BIE	0.00	0	82,400	0	82,400	0.00	0	83,200	0	83,200
DP 5028 - Air Regulatory Assistance RST/OTO/BIEN	0.00	0	257,500	0	257,500	0.00	0	260,000	0	260,000
Total Other Present Law Adjustments				\$5,748,914	6.00	\$74,269	\$3,894,388	\$1,789,288	\$5,757,945	
Grand Total All Present Law Adjustments				\$6,723,993						\$6,775,841

**LFD
COMMENT**

The components driving the biennial personal services adjustment are about \$1.5 million for vacancies in the base year and \$780,000 for non-legislative pay adjustments. The remainder is attributable to annualization of the previous pay plan, longevity adjustments, and increase to employer paid health insurance premiums. The non-legislative pay increases are attributable to market adjustments provided in the department wide pay initiative. Please see agency issues for a full description of the issue.

DP 5001 - Oil & Gas Well Registration FTE - The executive is requesting 3.0 additional FTE and state special and federal authority of approximately \$563,000 for the biennium to implement current regulatory requirements applicable to conventional oil and gas well facilities and to provide technical support to the Bureau of Land Management (BLM). The department anticipates increased new registrations or permit applications from oil and gas facilities and an increase in air quality permit applications.

Justification: The proposal for additional staff is needed because of the recent and dramatic increase in the number of oil and gas well facilities subject to the Montana and federal Clean Air Acts.

Goals: To issue currently required permits or registrations, provide compliance assistance, ensure compliance with all applicable air quality requirements, and protect public health through reduction of emissions of hazardous air pollutants.

Performance Criteria:

Performance criteria will include issuance of permits or registrations and compliance determinations.

- The department will issue 25 percent of the backlogged permits or registrations each fiscal year.
- The department will conduct compliance determinations on 15 percent of the permitted or registered facilities each fiscal year.

Milestones: The department is proposing to issue 25 percent of the existing permits/registrations per year. This will continue for a period of four years. Once the backlog has been eliminated the department will continue to issue any new source permits/registrations within the statutory timeframes, while conducting on-site inspections at about 15 percent of the facilities per year.

FTE: Three FTE have been requested. One FTE will be located in Miles City to provide technical support and assistance to the BLM. The other two FTE will be located in Helena. These FTE would handle the permitting and compliance activities associated with ensuring that conventional oil and gas well facilities are complying with the requirements of the Montana and federal Clean Air Acts. Recruitment would begin in July of 2007 and take up to 90 days to fill all positions.

Obstacles: The main challenge will be educating the regulated universe. The increase in activity associated with oil and gas development has occurred in the last several years, so many of these facilities are not familiar with the applicable environmental regulations.

Risk: Existing oil and gas well facilities would continue to operate without a permit and would be subject to enforcement action by EPA or a citizen's suit. The department would be in violation of the permitting requirements contained in the Montana Clean Air Act, and could be subject to a writ of mandamus, where a court would order the Department to issue the outstanding permits within a specific timeframe or be subject to sanctions. This would adversely affect issuance of permits for new facilities or processing of permit modifications for other existing facilities. This could potentially slow economic growth or create pressure for facilities to operate without a permit.

**LFD
ISSUE**

Incomplete Plan

As the result of legislation passed and approved during the 2005 session, operators of oil and gas wells are required to file an air quality application with the department by January 30, 2006 or 60 days after the completion of a well. The department received 430 such applications for permits. However, none of these applications have been reviewed to determine whether they are complete or "registration-eligible", or whether these facilities would need to obtain an air quality permit in lieu of registration. In addition, none of the necessary compliance verification activities associated with registration or permitting have been conducted for the facilities. The request for FTE is to eliminate this backlog over time and process new registrations within statutory guidelines. There are four issues for the legislature to consider:

7. The ability of the department to recruit three technical staff;
8. The lack of a clear goal and subsequent performance criteria;
9. The lack of clear milestones to provide a snapshot of activities over the biennium; and
10. Air quality permit fees will need to be adjusted.

**LFD
ISSUE
CONT.**Recruitment

The department anticipates hiring these positions within 90 days of the beginning of the fiscal year. The request for the Miles City position is a request to convert a modified FTE to permanent. The FTE was approved in conjunction with a budget amendment when the department received BLM funds for cooperative monitoring of air resources due to the expansion of coal bed methane. The department received approval for the FTE on July 7, 2006 and it has yet to be hired. The department has conducted two separate recruiting processes for the position. Both of these efforts have been unsuccessful because none of the candidates met the requirements of the department and BLM. This recruitment effort is currently on hold while the department and BLM evaluate options. The legislature may wish to obtain additional assurances that adequate recruitment efforts will occur in order to fill these positions.

Goals

The goal of this proposal does not accurately reflect the anticipated activities of the requested FTE. As proposed the FTE would review, process, and monitor compliance of air quality permits, but the performance criteria relates only to the reduction in backlog. The third FTE is to be working with the BLM; the goal of that position and subsequent performance criteria is not addressed. The goal does not provide a clear target to which all effort is being directed and is further complicated by the fact that the performance criteria do not provide adequate information for the legislature to determine if progress has been made.

Milestones

There are no measurable milestones to this project. Additional information provided by the department indicates that the two to be assigned to the permitting process will require "training sufficient to operate independently". There is no indication at what point of the biennium the department believes this will occur. The milestones do not provide a snapshot of major activities that should occur over the biennium.

Fees

The department's proposal does not address the source of funding. This package is dependent on air quality fees. The legislature does not establish the fees in statute. However, the amount the legislature appropriates from this source directly impacts the size of the fee adjustment. See the discussion on the Clean Air Act in the agency overview section for additional information.

In summary, the legislature may wish to:

- Obtain from the department a clear goal, related performance criteria, and milestones prior to deliberations
- Establish the goal, related performance criteria, and require performance reporting by requesting a companion bill or in language in HB 2

DP 5002 - Permitting Major Sources of Air Pollution FTE - The executive recommends an increase of 1.00 FTE and state special revenue of \$75,076 in FY 2008 and \$71,922 in FY 2009 for personal services and associated operating costs. Title V of the Federal Clean Air Act requires regulatory agencies to conduct detailed compliance evaluations to ensure companies are complying with all applicable air quality regulations, and to ensure that human health is being protected.

**LFD
ISSUE**Federal Requirements

Title V is the permitting requirements of the federal Clean Air Act. The act establishes the amount of pollutants that can be released in the air. States take the lead in carrying out the Clean Air Act, including establishing a permitting system and pledging adequate resources to meet the conditions of the act. If the Environmental Protection Agency determines the state is not doing an adequate job, the EPA can take over enforcing the Clean Air Act. The issue for the legislature is to determine what resources are required to do an adequate job, such as FTE.

**LFD
ISSUE
CONT.**

The department is seeking an additional FTE to compensate for increased workload under Title V. The department currently meets statutory permit time frames 33 percent of the time. The department indicates that recruiting for this position will occur as soon as it is approved, at the time HB 2 is passed and approved. The legislature may wish to obtain additional assurances that adequate recruitment and retention efforts are in place to maintain adequate staffing.

**LFD
COMMENT**

This decision package is dependent on air quality fees. The legislature does not establish the fees in statute. However, the amount the legislature appropriates from this source, directly impacts the size of the fee adjustment. See the discussion on the Clean Air Act in the agency overview section for additional information.

DP 5003 - Air Online Compliance Reporting-RST/OTO/BIE - The executive requests biennial one-time-only restricted state special revenue authority to modify the department's agency wide database to allow regulated facilities to submit required compliance reports online.

**LFD
COMMENT**

This decision package is dependent on air quality fees. The legislature does not establish the fees in statute. However, the amount the legislature appropriates from this source, directly impacts the size of the fee adjustment. See the discussion on the Clean Air Act in the agency overview section for additional information.

DP 5005 - Air Pollutant Emission Tracking - The executive requests 1.00 FTE special revenue authority to inventory and track emissions of air pollutants from all emission sources in order to implement the requirements of the New Source Review permitting program, and to implement the requirements of the Montana and Federal Clean Air Acts.

**LFD
COMMENT**

Under the Clean Air Act the state has the responsibility of assuring that the permitting programs are implemented in a manner to protect air quality, including the identification of new sources. In addition, this decision package is dependent on air quality fees. The legislature does not establish the fees in statute. However, the amount the legislature appropriates from this source, directly impacts the size of the fee adjustment. See the discussion on the Clean Air Act in the agency overview section for additional information.

DP 5006 - Air Resources Bureau Relocation-RST/OTO/BIE - The executive recommends this restricted one-time-only biennial budget request for relocation of the Air Resources Management Bureau.

**LFD
ISSUE**

Relocation May Not Be Needed

The Air Resources Management Bureau currently occupies 100 percent of the available office space within the assigned area of the Metcalf Building. If any additional FTE are approved, the Department may need to relocate the Air Resources Management Bureau to another building or into another area within the Metcalf Building, displacing staff from other bureaus. Since the department has experienced recruitment difficulties in this area, the legislature may wish to condition this appropriation on the successful hiring of any approved FTE. If the legislature does not approve additional FTE, this decision package is not needed.

**LFD
COMMENT**

This decision package is dependent on air quality fees. The legislature does not establish the fees in statute. However, the amount the legislature appropriates from this source, directly impacts the size of the fee adjustment. See the discussion on the Clean Air Act in the agency overview section for additional information.

DP 5009 - PCD Vehicles Owned and Leased - This budget request is for replacement of six vehicles that are currently owned by the department and two leased vehicles from the state Motor Pool.

**LFD
ISSUE**
Number Of Vehicles

If the legislature does not approve the additional FTE that would be located outside of Helena, this decision package could be limited to the six replacement vehicles.

DP 5011 - Aerial Reconnaissance in Coal Mine Inspection - The executive requests special revenue to provide thirty hours of helicopter flight time and GPS, computer and camera services by contracted individuals for the inspection program. This would provide electronically documented landscape references or standards for comparison between pre-mine and reclamation landscapes for future administrative and regulatory purposes.

DP 5012 - Hard Rock & MFSA Projects-RST/BIE - This request is for \$3,061,131 in FY 2008 and \$3,091,131 in FY 2009 of restricted biennial state and federal special revenue for projects administered by the Hard Rock and Major Facility Siting Act (MFSA) Programs and associated indirect costs. This would allow the department to:

- Utilize proceeds from the sale of general obligation bonds to conduct on mine reclamation
- Expend proceeds from forfeited bonds or settlement agreements for reclamation on related sites
- Remediate mine sites with federal funds from the Bureau of Land Management and the US Forest Service
- Collected major facility sitting act (MFSA) fees to complete sitting certification review

DP 5015 - Industrial Wastewater Operator Cert BIE/OTO - The executive requests a biennial one-time-only state special revenue authority to examine wastewater certification categories, develop new categories, and develop corresponding prescriptive industrial wastewater exams and study materials.

**LFD
COMMENT**

The anticipated outcome will be that industrial wastewater system operators will be tested and certified based on exam materials that directly relate to the type of wastewater system that they operate. Implementation of the new testing materials and the relative success of the applicants taking the new exams will be tracked through a database used for all current certification processes. Monthly statistics will be gathered to determine compliance with certification requirements.

DP 5016 - High Strength Wastewater Standards BIE/OTO - The executive requests spending authority to prepare a new circular or addition to DEQ-4 on non-residential strength wastewater treatment. Existing standards only pertain to residential strength wastewater and are inadequate for non-residential strength wastewater facilities, such as food processing or packaging facilities, restaurants, laboratories, and RV dump stations. The program would contract with an outside consulting firm to research and prepare the document.

DP 5017 - Subdivision Training IT - During the current biennium, the Subdivision Program utilized outside contractors to perform simple reviews, thereby freeing program staff to concentrate on performing the more difficult reviews within the mandated timeframes. The department also started developing internet-based training to educate individuals in the subdivision application process. The executive requests state special revenue to continue both activities.

**LFD
ISSUE**
Recent History

The 2005 legislature approved this funding to assist in reducing the processing time for subdivision review through contracted services and educational efforts. The department expended \$10,000 for contracted services and indirect assessments during FY 2006 and started planning for internet based training.

**LFD
ISSUE
CONT.**Contracted services

The department is anticipating contracting for the review of all county submitted reviews that need to be processed and finalized by the department within a ten-day period. Statistics were not provided regarding the effectiveness of this activity. The issue for the legislature is whether this has been an effective means of processing ten day reviews prior to establishing base funding for this activity.

Training

Through performance management reports to the Legislative Finance Committee, the department established the following performance criteria for the internet based education project:

1. On line training application development will be contracted by June 30, 2006. (Milestone)
2. On-line training applications will be developed by December 31, 2006. (Milestone)
3. On-line training utilization will increase monthly between the date of launch and December 31, 2007.
4. The number of first submittal approvals will increase by about 17 percent to 50 percent within 1 year of the implementation of on-line training, January 2007 through December 2007.

The department released the application development contract on October 1, 2006. This is the only measurable outcome of this activity to date. The issue for the legislature is to determine whether continued financial support is warranted for this activity. The legislature may wish to:

- Obtain an update on the progress of the internet base training application prior to deliberations
- Approve separate one-time only appropriation for maintenance costs
- Approve the package and condition with required reporting on performance

DP 5018 - Public Water Supply - Kalispell FTE - This state and federal special revenue budget request includes the addition of 1.00 FTE to provide technical assistance, compliance assistance, engineering review, operator training, and sanitary inspections to public water supply systems. The position would be located in the department's Kalispell Regional Office.

DP 5019 - Subdivision Grants to Counties - The executive recommends \$243,000 of state special revenue authority each year of the 2009 biennium for increased payments to counties that perform contracted subdivision reviews.

**LFD
COMMENT**

Nineteen Montana counties perform subdivision reviews under contract with the department. The counties provide review services and the department provides final approval within ten days of receipt of the county determination. (See DP 5017 for further details). The counties are compensated from the subdivision plat review fees for their work. Flathead, Missoula and Ravalli counties process the most applications.

The amount requested is equal to the carry forward authority that was approved by the Office of Budget and Program planning for use in this program during FY 2006. The department expended \$418,000 during FY 2006. This increase would establish the authority for grants to counties at \$435,000 and avoid the need to procure carry forward authority.

DP 5024 - Brownsfields Grant BIEN - The executive is requesting biennial federal authority to expend an awarded Brownsfield response grant. This would be used to establish and enhance the Hazardous Waste Section brownfields response program. Projects funded by the grant would include contaminated site inventories; all publicly available geographic information system (GIS) mapping systems; inventorying hazardous school laboratory chemical; and school lab safety training for middle and high school science teachers and administrators.

DP 5026 - Permitting & Compliance Division Base Adjustments - The executive requests approximately \$1.2 million each year of the biennium of all fund types to restore the base operating budget for the division. The base adjustment is attributed to the following areas:

- \$104,000 per year for operating costs not expended due to vacancies
- \$148,000 per year of contracted services costs for delayed contracting due to vacancies
- \$355,000 per year to annualize the operator reimbursement program and the junk vehicle grant program to historical levels
- \$366,000 per year for indirect adjustments to account for vacant positions and the proposed change in indirect calculations
- \$215,000 to restore authority associated with a missed year end accrual

**LFD
COMMENT**

This base adjustment includes two issues discussed in the agency overview section, the costs associated with vacant positions and the proposed change in the calculation of the indirect rate. Please see the agency overview section for additional information.

DP 5027 - On-site Wastewater Operator Certification OTO/BIE - The executive recommends restricted one-time-only state special revenue to develop an operator certification program for on-site wastewater treatment systems in accordance with 37-42-101, MCA. An on-site public wastewater system would be any system that serves 25 or more people daily or has 15 or more service connections and consists primarily of a septic tank and underground drain field.

DP 5028 - Air Regulatory Assistance RST/OTO/BIEN - The executive requests state special revenue to contract for permit application review, permit writing, preparation of environmental reviews required under the Montana Environmental Policy Act, and compliance activities to assure that permit conditions and other applicable requirements are being met. This is a one-time only biennial request.

**LFD
ISSUE**
Contracted Services

The department contends that contracted services are appropriate for permit or general environmental analysis (MEPA) or compliance outreach activities. This would account for less than fifteen percent of all air program activities. Since the department has difficulties with retaining staff, the legislature may wish to consider establishing performance criteria for this function to determine if on-going contracted services are warranted.

New Proposals

New Proposals										
Program	FTE	Fiscal 2008				FTE	Fiscal 2009			
		General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds
DP 5013 - MFSA/MEPA FTE										
50	1.00	0	75,679	0	75,679	1.00	0	71,865	0	71,865
DP 5014 - Subdivision Review FTE										
50	2.00	0	162,416	0	162,416	2.00	0	159,242	0	159,242
DP 5020 - Coal Bed Methane Compliance Monitoring FTE										
50	2.00	0	0	250,385	250,385	2.00	0	0	238,127	238,127
DP 5021 - METH Staff - Re-Instate FTE										
50	1.50	73,927	0	0	73,927	1.50	73,982	0	0	73,982
DP 5029 - Swift Gulch Drainage System OTO/BIE										
50	0.00	500,000	0	0	500,000	0.00	0	0	0	0
Total	6.50	\$573,927	\$238,095	\$250,385	\$1,062,407	6.50	\$73,982	\$231,107	\$238,127	\$543,216

DP 5013 - MFSA/MEPA FTE - This state special budget request includes 1.00 FTE for Major Facilities Siting (MFSA) projects and Montana Environmental Policy Act (MEPA) analysis.

**LFD
COMMENT**

The department is currently experiencing an increase in MEPA/MFSA activity due to the necessity for environmental analysis in connection with proposed mines, mine expansions, amendment of closure plans, and new and pending transmission lines.

**LFD
ISSUE****Need Recruitment Plan**

This FTE would provide expertise for both MFSA and MEPA activities and would require a broad base of expertise which may be difficult to recruit for. The position is classified as an environmental scientist and is funded at just above the entry level. The department may have difficulties in filling this position in a timely manner. The legislature may wish to inquire about recruitment plans for this position.

DP 5014 - Subdivision Review FTE - The executive is requesting 2.0 FTE and corresponding operating expenses to provide resources to increase turnaround time on plan reviews. One FTE, a hydro-geologist specializing in water availability issues, would be located in Helena, the other FTE, and a professional engineer, located in a field office.

The following information is provided so that the legislature can consider various performance management principles when examining this proposal. It is as submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: The number of heavy workload subdivision applications exceeding 100 lots increased by 400 percent last year. These larger, more complicated subdivisions require more information to be submitted by professional engineers, which must be reviewed by professional engineers.

Goals: To improve customer service with faster turn-around time on the review and approval of subdivision applications and provide a more detailed consideration of water impacts.

Performance Criteria: The main criteria that can be tracked are the time it takes to review and approve applications and the number of applications each reviewer has to work on. Assuming that the level of subdivision activity remains relatively stable, the time to review an application should be reduced from the current 60 days to 50 days or less within one year of hiring the FTEs. New rules and guidelines for water availability should be ready within 12 months.

Milestones: Both positions are currently being advertised and were expected to be filled by October 1, 2006

FTE: Professional Engineer – this position will be responsible for full file review. Senior hydrogeologist – this position will be responsible for developing standards, writing new rules, doing water related research for new rules, and reviewing water availability information for subdivision applications.

Funding: Both positions will be funded by fees.

Obstacles: At this point there are no obstacles unless qualified applicants are not available.

Risk: If this proposal is not approved file review times will continue to meet or exceed the 60 day statutory time period. Standards will not be developed for water related review issues and the existing staff may make mistakes in determining if adequate water is available for subdivisions.

**LFD
ISSUE****Recruitment Issues**

During the interim, the Office of Budget and Program Planning provided approval of two modified FTE to increase the efficiency of the subdivision review program. The department received this approval in March of 2006. This proposal is requesting the conversion of the modified FTE to permanent. At this writing, the engineer has not been hired.

**LFD
ISSUE
CONT.**

Progress toward the goal to improve turnaround time will be difficult to achieve in absence of this position. If the legislature wishes to approve this package, it may want to consider requiring performance reporting to assure progress is being made towards the goal.

DP 5020 - Coal Bed Methane Compliance Monitoring FTE - The executive requests 2.00 FTE federal special revenue to assist with energy related development. This includes developing discharge permits under the Water Quality Act related to coal bed methane and monitoring the compliance of such permits.

**LFD
COMMENT**

The Bureau of Land Management (BLM) is providing funding to DEQ for 2.00 FTE in the Water Protection Bureau to assist with energy related development: 1.00 FTE at Miles City to evaluate and monitor compliance of coal bed methane discharges and 1.00 FTE located in Helena for developing discharge permits. The Miles City position would collect both effluent and ambient water quality data to monitor energy development and assist in permit development and MEPA assessments. The Helena position would be responsible for developing the permitting system. This is a conversion of modified to permanent FTE.

DP 5021 - METH Staff - Re-Instate FTE - The executive requests 1.50 FTE general fund authority for the methamphetamine cleanup program authorized by the 2005 Legislature in HB 60.

**LFD
COMMENT**

This proposal converts modified FTE to permanent FTE. The department did not provide the necessary details to establish appropriate FTE in HB 2 during the 2005 session. This resulted in the department receiving unallocated personal services authority which is not tied to an FTE and does not roll forward in the base.

DP 5029 - Swift Gulch Drainage System OTO/BIE - The executive requests \$500,000 general fund authority for the 2009 biennium to be used to design and construct a semi-passive treatment system for the Swift Gulch drainage northwest of the Zortman-Landusky (Z/L) mine site in Eastern Montana. The ponds would allow for settling of metallic precipitates from the water, but the treatment system would remove iron from the water. Because of the remoteness of the location and the lack of electricity, the treatment system must rely on gravity and water flow.

**LFD
ISSUE****Construction And Maintenance Plan**

The semi-passive system would be implemented in conjunction with a series of settling ponds proposed for funding through a \$300,000 Reclamation Development Grants Program (RDGP) application. If both are approved, the department would have \$800,000 in authority to work with the Fort Belknap Indian Community Council in the design, construction and maintenance of this treatment system. Two issues should be addressed, the use of HB 2 for construction activities and the long term maintenance of this system.

Construction activities

The executive is proposing to construct a treatment system. The appropriation authority for this activity may be better suited in the long range building budget and reviewed by the Long Rang Planning subcommittee. Requests for the long range building program require details specific to the type of project, proposed alternatives, funding source, and long term maintenance costs. In addition, the request for corresponding RDGP grant would be heard by the same committee, providing consistent oversight to the process.

**LFD
ISSUE
CONT.**Maintenance costs

The executive's proposal indicates that the department will work with the Fort Belknap community on maintenance of the system. The proposal does not provide an indication of whether the state or the Fort Belknap community will be responsible for cost of system maintenance. The legislature may wish to determine this prior to deliberations.

To address the issues, the legislature may wish to:

- Defer the request to the Long Range Building program for a detailed review
- Approve the decisions package and require the department to establish a maintenance agreement prior to construction.

Program Proposed Budget

The following table summarizes the total executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	6.00	0.00	0.00	6.00	0.00	0.00	6.00	6.00
Personal Services	293,339	14,540	0	307,879	15,727	0	309,066	616,945
Operating Expenses	326,594	37,114	0	363,708	38,213	0	364,807	728,515
Total Costs	\$619,933	\$51,654	\$0	\$671,587	\$53,940	\$0	\$673,873	\$1,345,460
State/Other Special	619,933	51,654	0	671,587	53,940	0	673,873	1,345,460
Total Funds	\$619,933	\$51,654	\$0	\$671,587	\$53,940	\$0	\$673,873	\$1,345,460

Program Description

The Petroleum Tank Release Compensation Board is attached to the department for administrative purposes. The purpose of the board is to administer the petroleum tank release cleanup fund. This includes reimbursement to petroleum storage tank owners and operators for corrective action costs and compensation paid to third parties for bodily injury and property damage resulting from a release of petroleum from a petroleum storage tank. The board has a staff of 6.00 FTE.

Program Highlights

Petro Tank Release Compensation Board	
Major Program Highlights	
◆	The executive is recommending an increase of \$ 51,500 to keep pace with subrogation costs.
◆	Statewide adjustments make up the remaining increases
Major LFD Issues	
◆	None

Funding

The program is funded solely through a portion of the \$0.0075 fee on gasoline, diesel, heating oil, and aviation fuel distributed in Montana.

Program Funding Table							
Petro Tank Release Comp.							
Program Funding	Base FY 2006	% of Base FY 2006	Budget FY 2008	% of Budget FY 2008	Budget FY 2009	% of Budget FY 2009	
02000 Total State Special Funds	\$ 619,933	100.0%	\$ 671,587	100.0%	\$ 673,873	100.0%	
02058 Petroleum Storage Tank Cleanup	619,933	100.0%	671,587	100.0%	673,873	100.0%	
Grand Total	<u>\$ 619,933</u>	<u>100.0%</u>	<u>\$ 671,587</u>	<u>100.0%</u>	<u>\$ 673,873</u>	<u>100.0%</u>	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
-----Fiscal 2008-----					-----Fiscal 2009-----					
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				27,370						28,604
Vacancy Savings				(12,830)						(12,877)
Inflation/Deflation				46						71
Fixed Costs				(13,320)						(13,032)
Total Statewide Present Law Adjustments				\$1,266						\$2,766
DP 9001 - PTRCB Operations Adjustment	0.00	0	50,388	0	50,388	0.00	0	51,174	0	51,174
Total Other Present Law Adjustments	0.00	\$0	\$50,388	\$0	\$50,388	0.00	\$0	\$51,174	\$0	\$51,174
Grand Total All Present Law Adjustments				\$51,654						\$53,940

**LFD
COMMENT**

The components driving the biennial personal services adjustment is attributable to annualization of the previous pay plan, longevity adjustments, and increase to employer paid health insurance premiums.

DP 9001 - PTRCB Operations Adjustment - The executive recommends state special revenue of \$50,388 in FY 2008 and \$51,174 in FY 2009 for increased legal costs associated with claim subrogation, increased travel, and indirect charges. Authority for legal services would increase by 15 percent to \$250,000 annually, in order to keep pace with rising subrogation costs. The cost of subrogation the last six years has been \$706,080 and corresponding collections have been \$1,305,039.